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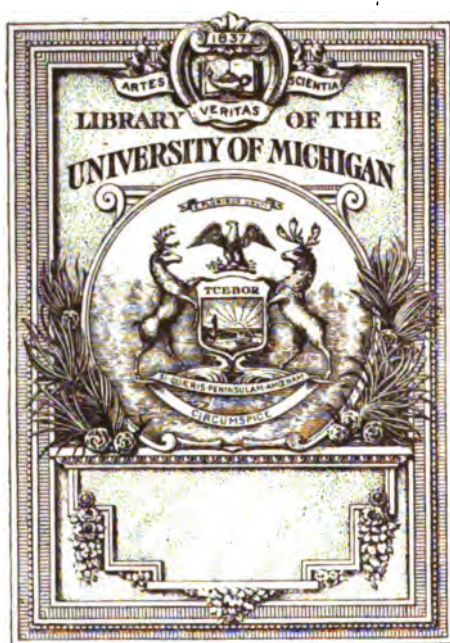
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THE 1916 YEAR BOOK
of the
**UNITED STATES BREWERS'
= ASSOCIATION**



CONTAINING

THE PRINCIPAL REPORTS DELIVERED
AT THE 56TH ANNUAL CONVENTION
HELD IN CLEVELAND, OHIO, NOVEMBER
21-24, 1916, AND ADDED CHAPTERS ON

EUROPEAN DEVELOPMENTS, CANADA'S
BRAND OF PROHIBITION, LOCAL OPTION
IN THE UNITED STATES, CURIOSITIES OF
ANTI-SALOON STATISTICS, HOME DISTIL-
LATION ABROAD, THE VIEW OF SCIENCE
AS TO ALCOHOL, AN APPENDIX GIVING
TABLES OF REVENUE AND OTHER DATA
AND A POSTSCRIPT GIVING THE TEXT OF
THE WEBB-KENYON DECISION

NEW YORK CITY
50 UNION SQUARE
1916



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U. S. Brewers Assoc. 4-26-179

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INTRODUCTION

At no other time in the world's history has public attention been given, so largely, to the question of drink in all its phases. It is by far the chief social question of the day, and not even in Europe, where a dozen nations have become engulfed in a war of unparalleled dimensions and violence, has it been obscured. On the contrary, it has attained a prominent position in the deliberations of those who are guiding the destinies of the belligerents, and it is not an exaggeration to say that the proper method of dealing with it has come to be recognized as a matter of war policy, taking its place with that of raising armies, building of navies, increasing revenues, planning of campaigns, and the actual fighting of troops on the battle front.

Here in the United States the question has become pronouncedly national within the year. Encouraged by spectacular victories in several States, though they had suffered emphatic defeats at other points, the prohibition forces laid siege to Congress immediately upon the reassembling of that body in December. They demanded with renewed vigor the passage of the bill intended to establish prohibition in the District of Columbia, and the adoption of the proposed Constitutional Amendment which, if duly ratified, would forbid the manufacture and sale of alcoholic beverages throughout the whole United States. The battle over the District of Columbia bill, took up practically the whole time of the Senate before the adjournment for the holidays.

There is the sharpest sort of contrast between the manner in which the question is approached and dealt with in the United States, and the methods in vogue in other countries. Probably no other nation in the world has so much legislation on the subject of liquor as our own, reckoning, of course, the enactments of the several States. In this respect we have indulged our characteristic love of experimentation to the full. But our experiments, with

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one or two exceptions, have not proceeded along a reasoned and orderly course, with a clearly-defined end in view. There has been built up a large incongruous structure of legislation resting upon foundations of false work, patched at all points and ever threatening to topple over. Only two principles are clearly distinguishable: The one seeking to squeeze from those engaged in purveying of alcoholic beverages, the last possible dollar for state or municipal treasuries, the other aiming absolutely to destroy such business by indirect means where direct measures are not immediately feasible.

The chaotic conditions thus created and perpetuated have had the effect that might be expected. The general public has suffered, those engaged in the trade have suffered. The trade, indeed, has many sins to answer for, but not the least of its offenses in degree and number have sprung from the uncertainty as to whether it was to be further despoiled of its earnings, or destroyed without notice and without compensation. If, notwithstanding such circumstances, the public drinking place still exists in the most populous States of the Union, and if it has shown a marked and general improvement in conduct and character—and there is ample evidence on this point—it would seem to be conclusively demonstrated that such establishments have a real public use and that they supply a genuine demand and need.

The European conception of the drink problem has a different basis, and the method of treatment, consequently, differs in marked degree. Every European nation has had its period, when drunkenness was so common that it seemed as if the whole population might be overwhelmed. But it has generally been recognized that this evil, however widespread and menacing, was due not to the rational use, but to the abuse of products which, if properly employed, could be made to add greatly to man's comfort, enjoyment and well-being. In seeking for means to correct and limit the vice of over-indulgence, the European nations have not been driven to precipitate action, or the acceptance of merely plausible theory. Before adopting new laws and regulations, they have first sought to fortify themselves with knowledge, obtained generally by commissions composed of eminent persons and equipped with every facility for exploring the whole field. The Norwegian Alcohol Commission, which recently com-

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pleted its labors, is an example. This body spent several years in an investigation of the subject in all aspects at home and abroad, and when it had assembled and assimilated the great body of facts thus gathered, it was prepared to make recommendations suited to the temper and character of the nation.

It is significant that in no case has recent action of the European nations upon this subject taken the form of prohibition. Even Russia has not adopted prohibition, for though placing the heavy spirituous liquors under the ban, she has expressly exempted beverages containing not more than 12 per cent of alcohol, which would include all beers and the natural unfortified wines. The trend in all the other European governments is the same. France, having abolished absinthe and sharply restricted the use of spirits, is reported to be about to adopt even more stringent measures regarding the latter, though permitting the use of beer and wine. Great Britain is reported to be about to adopt a similar course and may possibly nationalize the whole traffic. In Germany and Austria-Hungary the severe restrictions affect distilled spirits. Italy has adopted no prohibitive measures against wines. The Scandinavian countries surround the sale of distilled liquors with all sorts of restrictions and subject them to heavy taxation, but encourage the use of light wines and malt beverages by liberal regulations and light taxation. The lighter grade of beer is in some cases untaxed and permitted to be sold without license.

Indeed the very terminology is different in Europe. The fanatical prohibitionist in the United States makes no distinction between the lightest form of beer and the heaviest form of distilled spirits. To him they are all equally "alcoholic" beverages whose elimination he demands. In Europe the term "alcoholic" is commonly employed to denote only the heavy beverages, and the League Against Alcohol of France, the foremost organization of its kind in that country, expressly recommends the encouragement of the use of wines and beer as a means of combatting the use of liquors. France officially classes wine, beer, cider and perry as "hygienic drinks," while the nations at war serve the lighter alcoholic beverages in the form of rations to their fighting men.

It is significant, also, that the European nations have universally

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adopted the principle of compensation for losses sustained by individuals through the operation of regulations restrictive of the liquor traffic. Not even in the stress of the present death struggle has this principle been violated or even slighted. To the distiller whose plant is taken over for munition purposes, to the public house owner whose establishment lies within a proscribed area, to every one whose business is for any cause destroyed by the necessities of war, the government makes compensation.

The measures adopted by European governments, based, as indicated, upon the facts developed by painstaking and impartial investigation, have had most gratifying results. Sweden, once known as the "most drunken country in Europe," has made great strides in sobriety under wise legislation. Norway has become one of the most temperate of nations. Recent regulations in France give promise of working a reformation among the inhabitants, particularly of the northern section, where the practice of household distillation had assumed enormous proportions and been productive of great evils. In truth, it can be laid down as a general proposition, that Europe has found a way to temperance without confiscation of property, or destruction of important interests, without interference with popular tastes and customs, and without arousing the intense antagonisms and bitterness that invariably attend the radical courses pursued in some portions of the United States.

If an attempt be made to discover the reason for the faulty methods employed in this country and the practical failure to accomplish permanent and positive improvement, the path leads inevitably to the door of the chief organization espousing the cause of prohibition, which for a score of years has conducted an active warfare throughout the country. The rise of the Anti-Saloon League of America and its growth in power constitute one of the phenomena of the Republic's history. Long before its birth there had been a prohibition party which had never been able to prove itself an important political factor and which to-day commands but few followers. The Anti-Saloon League did not immediately proclaim itself as favoring prohibition and did not assume the form and character of a political party. It cut party lines, in fact, and gained its first impetus by emphasizing the many offensive features and many ob-

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vious deficiencies of the American Saloon. It gained recruits by raising side issues and avoiding broad principles. It succeeded in gathering under its standards practically all of the old-fashioned organizations that were distinguished by the term "temperance" and it built up throughout the country compact groups of adherents, smaller or greater, as the case might be, to which its admonitions were as law. It found a welcome in the pulpits of several large religious bodies, and it did not hesitate to reach into the collection boxes of churches for the material means to support its propaganda. It was ideally constituted for prompt and efficient action, for it was ruled by a small coterie which avowed responsibility to nobody and which issued no reports. The oligarchy exists now and it would be a difficult, if not impossible, task to determine the wielders of power in the Anti-Saloon League, and the names of those directing its course.

It has been said that the League, at the outset, did not espouse prohibition. It did battle for local option and was warm in its professions of belief in the justice and efficacy of home rule. But its love for home rule invariably waned when an opportunity arose under county option to coerce by the power of larger units those municipalities which did not adopt its ideas. And when a sufficient number of "dry" counties had been secured, it was ready to throw off all disguise and declare for State prohibition. The suspicion with which local option has been regarded by many of those engaged in the manufacture and sale of alcoholic beverages, is readily explicable in view of these circumstances.

The Anti-Saloon League is now demanding national prohibition and is employing familiar tactics to force the proposed constitutional amendment through Congress. If it should ever be able to bring about national prohibition, the question as to its future course of action would at once become extremely important. The experience of the past warrants the prediction that, in such an event, the Anti-Saloon League would not be content to sink into passivity. In every State where it has brought about prohibition, the League has been stirred to greater activity and to bolder grasping for power. The recent history of Virginia may furnish an example. A comparatively mild prohibitory measure having been approved by the people at the polls, the Anti-Saloon League drove through the

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Legislature a statute far more drastic in its provisions, calling for costly and elaborate machinery of enforcement. The State Superintendent of the League was actually selected as Commissioner of Prohibition with power to appoint an army of deputies and to supersede the constituted attorneys of the commonwealth in legal cases in which his department might be concerned. A ruling by this official, interpretative of some regulation, was recently described in the public press with no thought of irony as a "concession to the people."

This is not an isolated instance of usurpation of governmental authority. In another State the Anti-Saloon League leader is disclosed as organizing crowds to invade court rooms and brow-beat judges and juries in liquor cases; in still another, the attorney of the organization demands and receives from a judge part of the evidence gathered in similar cases; in all, the power of an irresponsible group over public affairs and public officials is manifested at every turn. When the magnitude of the police problem that would be involved in national prohibition is considered—to say nothing of any of the other great problems that would be inseparable from such a policy—it is not difficult to imagine the part the Anti-Saloon League of America would seek to assume in national affairs.

In the making up of such a volume as the Year Book the problem is invariably one of selection, for a wealth of material is at hand. In the current volume, the annual address of the President of the United States Brewers' Association will be found of interest as stating the policies and principles of the brewing industry, and the important domestic events of the year in the way of elections, new legislation and court decisions, will be found in the report of the Vigilance Committee. A carefully prepared article gives valuable information concerning the situation in Canada and contrasts the Dominion brand of prohibition with that in the United States. Governmental action concerning liquor by the warring European countries is summarized and a paper originally published in the *Mexican Review* shows how the reform element in that country, after testing prohibition, felt compelled to abandon it. Some of the many misstatements which are put forward by the Anti-Saloon League and prohibition orators and writers are exposed in a series of ar-

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ticles. In particular, excerpts from the writings of Arne Fischer, a well-known Danish mathematician, reveal the misuse of statistics and the fallacy of arguments based thereupon by certain individuals who have attempted to treat the subject from the standpoint of science. An elaborate study of the workings of local option in the United States, and an exposition of the evils attributable to the operations of prohibition in Mississippi, will prove profitable reading. The habit of thought and action of a prohibition community is strikingly revealed in the philosophic articles by Albert J. Nock, republished from the *North American Review*. A chapter from Bolton Hall's recently published book on "Thrift" refutes a widely promulgated and oft-reiterated charge that liquor is responsible for the greater part of social ills and excerpts from the latest edition of the *Encyclopedia Britannica* show the attitude of the greatest authority in the world towards several phases of the question. Some important statistical tables will be found among other features of the Year Book.

The Year Book of the United States Brewers' Association is designed primarily for the use and benefit of students of the drink question. None of the articles therein is under copyright—unless expressly stated—and full use may be made of all the matter found within its covers.

HUGH F. Fox,
Secretary.

THE POLICY OF THE BREWING INDUSTRY

Address of Gustave Pabst

(President to the United States Brewers' Convention, at Cleveland, November 21, 1916, which was formally endorsed by that body as an expression of its policies and purposes)

Since our last convention prohibition elections have been held in eight States. The "wets" won by large majorities in California, Maryland, Missouri and Vermont. The "drys" won in Michigan, Montana, Nebraska and South Dakota.

It is not worth while spending any time in holding post-mortems over these elections, unless it be for the purpose of guiding our judgment as to the future. We know that logically we are on the side of temperance and that we ought to be leaders in the true temperance crusade. We have plenty of evidence that the thoughtful men and women of the country are not opposed to the reasonable use of beer, and we believe that the people are willing to meet us half way in establishing conditions that will promote the welfare of the community.

The first and most important thing is to put the facts before the people—all the facts; the facts about beer, about the way in which it is made, and how it is regarded in other countries; the discrimination in favor of light beers in those countries where the anti-alcohol sentiment is the strongest. Under our system of government, excise legislation and the administration of licensing laws are local functions, and it would be futile to try to get uniform legislation on the subject. Undoubtedly there is a real demand on the part of the large centers of population for the right of self-government, which will give local bodies the opportunity for the fullest exercise of initiative and discretion in shaping and administering their regulations of the traffic. Some communities are satisfied with existing conditions, while others insist upon changes which will revolutionize the entire business. We as brewers must not only put ourselves abreast of public sentiment, but must be willing to lead it wherever

the conditions are such as to make our action of practical value. The main thing is to establish our good faith with the public, by our attitude and our willingness to co-operate in all measures of practical reform. There has been such a vast improvement in saloon conditions that the great majority of them are now decent and law-abiding, but the traditions of the past have given the opposition to the saloon an impetus which is difficult to overcome. It cannot be denied moreover, that over-competition has accentuated the opposition, even where the letter of the law is observed. There are a number of cities which still have many more saloons than are needed for the convenience of the public, and the brewer cannot escape his share of responsibility for this over-stimulation of the retail trade. I mention this because it is futile for us to undertake a publicity campaign unless we are sure that the rank and file of our members have the right mental attitude of progress in methods of distributing our product, and are willing and ready to accept the sacrifices that this may involve.

Assuming that you are in accord with me in these statements, and that you will ratify them in a resolution of approval, let us consider the situation from the national standpoint.

The prohibitionists assume that all of the people in the dry States are opposed to the license system, and they make the extravagant claim that the majority of the people have already registered their approval of the prohibition principle. The record of the vote of the seventeen States that have voted for prohibition gives a total majority of 394,000 for it, while the thirteen States that have voted it down, gave a total majority of 652,000 against it—or a net difference of 258,000 in opposition to prohibitory laws. In this connection it may be mentioned that our opponents have misrepresented the facts in regard to the recent elections in Canada. In adopting prohibition, Ontario, Manitoba, Alberta and other Provinces have not extinguished the breweries, but have specifically provided that the brewers may continue to make light beers for sale to the individual consumer.

An analysis of the vote in the States wherein prohibitory laws have been adopted, demonstrates the prominent fact that the cities located in those States have voted by a considerable majority in

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favor of the licensed traffic, but have been over-ruled by the large rural vote; forcing upon the cities the wishes or desires of the rural population outside of their limits.

The agitation for an amendment to the Constitution of the United States to provide for National Prohibition will undoubtedly be pressed with renewed vigor. The interest of the government in this question is very great since the adoption of national prohibition would deprive the Federal Government of more than one-third of its entire revenue. The magnitude of the fiscal problem can be sensed when one realizes that to make up this deficit it would be necessary to multiply the new corporation income tax by five, or the individual income tax by four, or double our customs duties, and this is assuming that there will be no material increase in our national expenditures.

The enactment of national prohibition would, of course, wipe out the revenue of the States and municipalities from license fees, which in 1916 was estimated at a total of one hundred and ten million dollars, which does not take into account the tax receipts on the real estate and other property involved. In the State of New York, for example, the total receipts from the retail liquor licenses amount to over twenty-two million dollars, of which approximately ten million dollars go direct to the State. This is about one-fourth of the total receipts in New York State from all sources.

THE ECONOMIC ASPECTS

The issue is of momentous importance from other aspects than that of public finance. The ruin and waste which national prohibition would bring to all of those who are directly or indirectly dependent upon the liquor industry, involve a question of economic disturbance that would be nation wide. It is estimated that the capital invested in the liquor industry, which includes brewing, distilling, wine-making and malting, and the fixtures and furnishings for the retail trade amounts to the enormous sum of one billion, three hundred million dollars, and the total annual disbursements in all branches of the industry for materials, transportation and wages, reached the amazing total of seven hundred million dollars. This

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represents the sum of the money values involved in national prohibition. These bare figures yield totals that baffle ordinary comprehension. The disbursements for materials, taxes, rents, supplies, wages, etc., directly support millions of inhabitants, and constitute large items in agriculture, general manufacture, transportation and real estate.

CONFISCATION OR COMPENSATION

All other civilized countries have recognized the immorality of destroying property values that from time immemorial have been protected by law, and by which governments—local, state and national—have been so largely maintained. The Federal government cannot fairly evade its responsibility for this enormous destruction of property values by passing it on to the States. If the principle of honest compensation cannot be ignored, the remedy must be provided by the Federal Government.

THE PRACTICAL EFFECT OF NATIONAL PROHIBITION

It is urged by advocates of prohibition that no price is too great for the government to pay, if it can, by its action, overcome the drink evil. The question is whether the destruction of the liquor industry would bring us nearer to the real object, which is the cessation of intemperance. The immediate effect of national prohibition would be the wiping out of beer as a beverage, and, if human experience is any guide, this would be followed by the rapid development of home distillation of spirits. It is conceded that the law cannot prohibit man from making his own spirits for his home consumption. The process is cheap and simple, and the materials can be readily obtained in many sections of the country. In other countries, such as Sweden and France where home distillation has developed, the drink evil has been driven into the homes with most deplorable results.

ENFORCEMENT

The burden of enforcing a national prohibitory law would inevitably fall upon the State or local authorities, unless it is pro-

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posed that the national government should take over their police power. Possibly the Federal Government might undertake the duty of patrolling our international borders, and the enormous stretch of coast line to prevent the smuggling in of liquor, but the magnitude of this task is almost appalling. The task of supervising the home distillation so as to prevent the householder from trafficking in his own product would have to be met by the local authorities, and when it is recalled that in all prohibition elections the people in the large cities have registered their disapproval of prohibition, the police would constantly be confronted with the difficulty of compelling the people to submit to a law that is not supported by public sentiment, and which they regard as a species of tyranny.

HOW TO OBTAIN A REMEDY

National prohibition under our form of government could not be brought about as the result of the popular vote of the country at large, though this, we believe, would mean an overwhelming majority against it. It can only come through compulsion which may now be directed by sparsely inhabited rural States, against the far more populous and wealthy urban States. So far as can be reasoned from experience gathered through generations of experiments, backed by all the force there is in law, the abolition of the legalized traffic in alcoholic liquors would mean its replacement by an unregulated manufacture and sale so extensive and of such a character as not only to exclude the possibility of diminishing the actual drink evil, but certain to intensify its worst forms.

We have cited these points to call attention to the enormous importance of the practical problems and difficulties involved in the stupendous question—national prohibition.

The question for thoughtful men is how this industry may be so regulated that the evils incident to it shall gradually diminish, and intemperance be reduced until it becomes a negligible social factor? What suggestions can be made to stem the tide of national prohibition, which if continued, while it will not result, as has been proven, in bettering conditions, will spell ruin to present investments, and disaster to the cause of real temperance? While it can

be easily established that some of the causes which have been suggested are exaggerated, and are not the sole fault of those in the business, this will not satisfy the public demand. Promises, advice to the trade, resolutions of condemnation, etc., will not suffice. A policy must be agreed to and acted upon. Mere temporary action will not do. It must be persistent, energetic, thorough and continuous. Any policy we may agree upon will find objectors in our ranks; reasons why it is impracticable will be urged; but we must overlook our immediate personal interests and the effect upon our business, in order to arrive at a possible solution which will ultimately result in permanency to our industry.

I would therefore present for your serious consideration some suggestions which occur to me, which may be influential in stemming the growing sentiment in opposition to our industry, and to the saloon as a method of distribution of our product:

1. An energetic and active demand on local authorities to exercise greater discrimination in granting licenses, and in the prompt and efficient prosecution for repeated or wanton violation of law as distinguished from an honest mistake.

2. The advisability and practicability of a gradual decrease in the number of licensed stands, particularly with reference to the maintenance of several in the immediate vicinity of each other, and also of making all stands in the immediate vicinity of industrial plants, beer saloons only, where the men can get good hot food at a low price with their glass of beer, under comfortable surroundings.

3. We should commence an active and aggressive campaign in the interest of truth respecting our industry and its product. Much misunderstanding exists in the minds of the public as to what our product is; of its importance as a temperance beverage; of its health and strength producing qualities; of its purity; of the good effects of its temperate and moderate use; of the possibilities of its supplanting beverages of greater alcoholic content; of its influence in building up new energy in the human system. These, among other benefits, inherent in the proper use of our product, should be persistently brought to the public attention.

It is my belief that the adoption and enforcement of the suggestions above referred to will, if persisted in, and honestly carried

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into effect, change public sentiment in respect to the beer industry.

Such a campaign depends primarily upon the adoption of this constructive program. Assuming this, the question is one of large expense, because if such a campaign is inaugurated, it must be a continuing one; mere temporary or sporadic attempts will not produce results. We are not prepared to present a plan in detail because it must be worked out with reference to the co-operation of the State and local associations. The main question is to determine first our policy, and then develop the plan.

VIGILANCE COMMITTEE REPORT

Following is a review of elections, legislative events and other matters of interest to the trade in the several States:

Alabama.—Richmond P. Hobson was defeated in the congressional primaries.

The Supreme Court declared the liquor inspection ordinance of Birmingham invalid.

Arizona.—A supreme court decision declared that the importation of liquors for personal use was no offense.

There were two questions voted on in November.

The complete vote for "Bone Dry" prohibition was:

For	28,473
Against	17,379

Majority in favor of prohibition..... 11,094

The official vote on local option was:

Against	29,934
For	13,377

Majority against local option..... 16,557

Arkansas.—At the November elections Arkansas voted to retain State-wide prohibition; defeating local option.

California.—Both prohibition amendments were defeated at the November elections.

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The complete vote on amendment No. 1 forbidding the sale or introduction of liquors after January 1st, 1920, was:

No	538,200
Yes	436,639

Majority against the amendment..... 101,561

The complete vote on amendment No. 2, forbidding the sale of liquors in saloons, hotels, restaurants, clubs, or dance halls, after January 1st, 1918, was:

No	505,783
Yes	461,039

Majority against the amendment..... 44,744

(During the year, at local option elections, Bakersfield, Tracy, Sausalito, Paris and Imperial voted "wet," while Hanford, Clovis and Exeter voted "dry.")

Colorado.—An amendment authorizing the manufacture and sale of beer was defeated at the November election. The official count was:

Against	163,135
For	77,345

Majority against the amendment..... 85,790

The vote of the city of Denver on this amendment was:

Against	41,427
For	22,538

Majority against the amendment..... 18,889

Denver's special charter could not save its drinking places, as the State Supreme Court decided against them. It is not legal to have alcohol in any food or beverage in this State, not even in mince pie or plum pudding—so the Attorney General has ruled.

The brewers of Colorado have united with the authorities in a strict enforcement of the prohibition law.

Delaware.—Dover having voted out saloons and bars, the hotel Richardson, which cost over \$100,000, has been sold for \$12,200.

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Florida.—The Prohibition candidate for Governor was elected in November by almost 5,000 majority. The Legislature was claimed by the "drys," and it was asserted that it would enact State-wide prohibition.

Georgia—Statutory.—The prohibition law of Georgia was declared to be constitutional by a ruling of the Federal Circuit Court, and the Georgia Court of Appeals decided that a judgment could not be had for the collection of a promissory note given for the purpose of liquor for illegal sale in the State.

Not only are all alcoholic liquors barred from trade by the new Prohibition law, effective May 1, 1916, but all liquors manufactured from malt "whether alcoholic or not or whether intoxicating or not," are prohibited, as well as any made in imitation of or intended as substitutes for any alcoholic beverages.

Idaho.—A Prohibition Constitutional Amendment was carried by the people at the November elections by the following vote:

For	90,576
Against	35,456
<hr/>	
Majority in favor of the amendment.....	55,120

Illinois.—The Supreme Court decided that the club house locker system of receiving and using liquors in an orderly way was lawful, and also that a city could not by ordinance prohibit the transportation of liquors into it.

Little change is to be noted in public sentiment on the drink question. In the Senatorial and Congressional Districts, where male citizens only are allowed to vote, for Legislative and Congressional officers at primaries and elections, men, in almost every instance, voted majorities in favor of license and against prohibition.

The male vote cast in 58 counties (exclusive of Cook Co.) in April, 1916, shows a majority of 30,303 in favor of license. The women's vote cast in the same 58 counties in April, 1916, shows a majority of 39,437 against license.

The following voted wet: Arlington Heights, Ashkum, Arenzville, Bear Creek, Blairsville, Bloomington, Campus, Cardiff, Carlinville, East Dubuque, Hennepin, Herrin, Lockport, Manlius,

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Mounds, Nashville, Nokomis, Papineau, Steeleville, Virgil, Witt and Warden.

The following voted to remain wet: Alton, Amboy, Andalusia, Antioch, Auburn, Aurora, Browning, Burgers, Chillicothe, Coral, Dunlieth, East Lincoln, Fulton, Ganeer, Grant, Granville, Henry, Kickapoo, LaSalle, Leepertown, McHenry, Morris, Nauvoo, Rock Island, St. Charles, Savanna, Six Mile, South Litchfield, South Moline, and West Galena.

The following townships voted dry: Annawan, Avon, Brooklyn, Coal Valley, Colona, Dixon, Grafton, Grisham, Hartland, Irvington, Moline, Richmond, Sand Ridge, Silver Creek, Spring Bay and Waukegan.

The following towns voted to remain dry: Altmount, Apple River, Assumption, Atkinson, Batavia, Bloomington, Belvidere, Bradley, Brookside, Buckheart, Bushnell, Canton, Chadwick, Campaign, Channahon, Chatsworth, Chebause, Chenoa, Coloma, Crescent, Dalton, Decatur, Deerfield, Dekalb, Door, Douglas, Downer's Grove, Dwight, East Fork, Edin, Elgin, Elizabeth, Elmwood, Essex, Farmington, Fayette, Flagg, Farreston, Frankfort, Freeport, Geneva, Genoa, Hampton, Huey, Keithsburg, Kendall, Kewanee, Kirkland, Lake Villa, Libertyville, Little Rock, Lively Grove, Manteno, Marissa, Martinton, Mattoon, Momence, Morrison, Nebraska, Nevada, New Berlin, Norton, Odell, Old Ripley, Oregon, Pana, Peotone, Percy, Pesotun, Pigeon Grove, Plainfield, Putnam, Rutland, St. Ann, Somonauk, Squaw Grove, Sterling, Sycamore, Taylorville, Tyrone, and Winslow.

Indiana.—Aside from the elections under the local option law, there have been no developments of importance.

The cities which voted for license during the year were: Elwood, Garrett, Greensburg, Linton, Munsey, and Washington.

Those voting dry were: Bicknell (contested), Bloomington, Columbia City, Greenfield and Sullivan.

Bicknell, Columbia City and Greenfield had previously been in the license column, while Greensburg and Munsey had been dry up to the last election. Munsey, which voted for license was previously the largest dry city in Indiana.

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Kentucky.—Herewith is given a summary of all new laws affecting the industry.

(1) Making second violation of the local option law a felony.
(2) Regulating the granting of license to persons to retail liquors; to regulate issuance of retail liquor licenses; require description of location for which license is valid; forbidding blinds and screens in such places during prohibited hours and providing for license forfeiture and prosecution of certain officials for failure to discharge duties imposed. (3) Preventing adulteration of food, drugs, medicines and liquor. (4) Directing the auditor of public accounts to refund to the various former liquor dealers in counties since June 15, 1914, the unearned portion of liquor licenses from the time it became unlawful to sell.

IMPORTANT MEASURES THAT FAILED TO PASS

Statewide Prohibition Amendment to the Constitution of the State of Kentucky, defeated in the Senate 14 to 20; defeated in the House 54 to 40. Providing for forfeiture of State license for violation of the liquor laws and giving the Franklin Circuit Court jurisdiction; authorizing suit for forfeiture by Attorney-General, and making owner of license ineligible to receive another. Declaring places where liquor is sold in violation of law public nuisances. To prohibit transportation of more than one-half gallon of spirits or 5 gallons of beer a month into local option territory. Making a third violation of local option laws a felony. To vacate offices for drunkenness. To make punishment for violating local option laws fine or imprisonment instead of both fine and imprisonment. To repeal law punishing minors for entering saloons. Making it unlawful to operate meat or grocery stores in connection with a saloon. To make last Friday in October "Temperance" day in public schools. To punish drunkenness at public gatherings. Making it a felony to sell liquors without a license.

ORDINANCES AFFECTING LICENSING OR CONDUCT OF SALOONS

The Attorney-General ruled that retail liquor dealers who are forced out of business in towns which have been declared dry, may

not transfer their license taken out in the city from which they started business to another which continues to permit the sale of liquor.

An ordinance was passed by the city Commissioners of Middleboro, requiring a license fee of \$500 for soliciting orders or distributing blanks for mail order liquor houses, and providing a fine of \$10 for violation.

Legal.—The Court of Appeals in the case of Robinson v. Commonwealth held that license to keep a tavern outside of an incorporated municipality should be granted only when the keeping of a tavern at the proposed place was necessary for the accommodation of the public; where the only real purpose of an applicant was to secure the right to sell whiskey and the keeping of a tavern was a mere pretence; the granting of the license was improper; where a majority of the voters protested the granting was improper.

The same Court, in the case of Christian Moerlein Brewing Co. v. Roser, decided that the Council of the city where the sale of intoxicating liquors was permitted by law, had a reasonable discretion in determining the places of sale, the number of licenses and the person to whom such licenses should be granted; and when this was done they might properly refuse to issue any additional licenses, even though there was no objection to the applicants or their proposed places of business.

The same court, in the case of Audubon Country Club v. Commonwealth ruled that the word "public," as contemplated in the statute of granting tavern licenses on a showing of necessity for accommodation of the public generally, was the general public, as distinguished from a class, like the members of a club coming as such.

The same court took judicial notice that grape wine was an intoxicating liquor.

Elections.—Two local option elections were held in Kentucky since the last report, without changing its status. The town of Gracey in Christian County voted to remain wet by 66 votes. In 1911 local option was defeated in Gracey by 31 majority. Cumber-

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land County as a unit voted dry by a majority of 811; there were no saloons in this county, only some small distilleries and about half a dozen road houses.

Louisiana.—The sale of near-beer in dry territory in the State is prohibited by a new statute.

MARYLAND

In the November elections the city of Baltimore voted against prohibition as follows:

Against prohibition	73,156
For prohibition	29,352
Majority against prohibition.....	43,804
Annapolis voted against prohibition by a majority of	464
Havre de Grace voted dry by a majority of.....	24
Ellicott City voted wet by a majority of.....	26
Brooklyn and Curtis Bay districts voted wet by a majority of.....	446

Alleghany County voted to retain licenses:

Wet	6,661
Dry	4,641
Majority in favor of licenses.....	2,020

Baltimore County voted to retain licenses:

Wet	17,388
Dry	9,647
Majority in favor of licenses.....	7,741

Frederick County voted against licenses:

Dry	6,156
Wet	5,305
Majority against licenses.....	851

Prince George County voted to retain licenses:

Wet	3,080
Dry	3,007
Majority in favor of licenses.....	73

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Washington County voted against licenses:

Dry	5,470
Wet	4,996
Majority against licenses.....	474
Hagerstown went wet by a majority of.....	166

That the sale of near-beer, home brew, and all such beverages that contain alcohol in Montgomery County, constitutes violations of the local option law of the county was a decision rendered by a police court in that county.

License saloons opened in Cumberland after five years of no-license conditions.

The sale of "Tem-po," having the appearance of lager beer, is forbidden by statute in Talbot County. A bill to repeal the gallon-a-month law, so far as Talbot County is concerned, was enacted.

Massachusetts.—The annual vote on the question of license or no license excited unusual interest, because of the presence of Billy Sunday in Boston, where he conducted a revival during the campaign, and the strenuous effort to have the Metropolis of the State declare for prohibition. Boston, however, rolled up a majority of 23,000 for license as contrasted with one of 14,000 the previous year. Lowell, Lawrence and Worcester also increased their votes for license as contrasted with the previous years, and Granville, "dry" for 30 years, voted "wet." On the other hand Fall River went into the "dry" column. Few other changes of note occurred at the election.

LEGISLATION

The 1916 Legislature adopted a law prohibiting the transportation of liquors by licensed dealers in their own delivery teams into no-license cities and towns. It was vetoed by the Governor at the preceding session on the ground that, as then drawn, it might interfere with the transportation of liquor through no-license towns while en route to destination in licensed communities. This feature of the bill did not come up at the last session, and therefore, under the bill

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as passed, liquor dealers have the right to transport their goods to a license town or city through a no-license community.

Among the important measures that failed to pass were a bill for district option in the city of Boston, a bill to provide that in a city or town that voted license, no license should be issued to any location within 1,500 feet of a city or town under no-license; and a bill to repeal the "Bar and Bottle" law of 1910.

Michigan.—The State voted in favor of prohibition at the November elections, the official returns being:

Prohibition	353,378
Against prohibition	284,754
Majority in favor of prohibition.....	68,624

The city of Detroit voted against prohibition by about 8,000.

A Home Rule Amendment, giving incorporated villages and cities the right to decide by home rule whether liquors shall be sold within their boundaries, was defeated. The vote was:

Against	378,871
For	256,272
Majority against the amendment.....	122,599

Minnesota.—In election in 35 towns in March, three towns changed from "wet" to "dry," and one from no license to license.

Towns voting license: Blooming Prairie, Ceylon, Elgin, Goodhue, Hammond, Holland, Lakeville, New Market, Owatonna (was dry), Randolph, Sherburn, Triumph, Trosky, Welcome and Zumbro Falls.

Towns voting no license: Alpha, Edgerton, Eyota (was wet), Farmington, Foley (was wet), Heron Lake, Jackson, Jeffers, Kimball, Lakefield, Litchfield, Marine Mills, Mountain Lake, New Richland, Pike Island, Plainview (was wet), Stewartville, Truman and Zumbrota.

Mississippi.—Among the more important laws enacted by the 1916 Legislature were those limiting shipments to one quart of

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liquor and 24 pints of beer every two weeks to any one person in the State and prohibiting liquor advertisements within the State in newspapers, on billboards or in any other manner.

A bill providing that all liquor packages coming into the State must be opened by the sheriff or his deputies, the mayor or constables, and that fees of 25 cents for such inspection must be paid on each package was defeated.

The "one quart every two weeks law" passed at a recent session of the Legislature was held constitutional.

Missouri.—At the November elections Missouri again voted down prohibition, the official figures being:

Against prohibition	416,826
For prohibition	294,288
	<hr/>
	122,538

In the city of St. Loujs the vote was:

Against prohibition	141,070
For prohibition	13,529
	<hr/>
	127,541
Majority against prohibition.....	127,541

Jackson County, in which Kansas City is located, returned a majority of 3,716 in favor of prohibition.

Montana.—The state adopted prohibition in November by voting in favor of a statute which prohibits the sale, disposition, manufacture or introduction into the State of ardent spirits, or any compound thereof capable of use as a beverage, or ale, beer, wine or intoxicating liquor or liquors of any kind. This act takes effect on and after the 31st day of December, 1918.

Official returns show:

For prohibition	102,358
Against prohibition	73,990
	<hr/>
Majority in favor of prohibition.....	28,368

Both the Democratic and Republican parties at their State Con-

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ventions had declared in favor of State-wide and national prohibition.

Nebraska.—The State voted in favor of prohibition at the November elections, by a majority of 29,400. Douglas County, in which Omaha is located, voted 11,121 against prohibition.

New Jersey.—The New Jersey Assembly on February 15th defeated the Municipal Local Option Bill of the State Anti-Saloon League by a vote of 40 to 19, after it had been passed by the Senate by a vote of 12 to 9.

A bill to give borough councils power to regulate and license the liquor traffic was defeated.

A bill was passed prohibiting the sale of liquor in any quantity over one quart without a special license for that purpose.

The Supreme Court held that commission government did not confer upon municipalities the power of regulating traffic in intoxicating liquors.

The Supreme Court decided that the provisions of the Leonard Limitation Law of 1913, restricting the number of licensed places in a municipality to one for every 500 population, excluded from the computation hotels having not less than 50 spare rooms and beds.

The Supreme Court found cider intoxicating.

By a majority of 189, Montclair voted to retain licenses.

New York.—No material change was made in the excise law except one relating solely to revenue, which was enacted in response to the financial needs of the State. There were several bills, none of which was adopted, aimed in some way at the trade. One sought to prevent the manufacture and sale of alcoholic liquors absolutely. Another was designed to bring about the extension of local option by a so-called Referendum measure, while another resorted to a new form of attack for the purpose of extending local option by providing that a certain city, Elmira, be given the right by the Legislature to hold a local option election notwithstanding the fact that the general law of the State only provides for local option elections for towns and not for cities. Another bill extended present town local option provisions to third class cities, and another sought to

give the City of Binghamton specially and any other city which would petition for it, the right to hold a local option election. The end of the session brought forth a Remonstrance Bill which permitted the electors of a District, City or State and women of certain qualifications to sign a so-called Remonstrance, and if it contained 51 per cent of such persons, the Court was called upon to prohibit the traffic.

The closing year also witnessed the revival of a distinction between hard and soft alcoholic drinks by the introduction of two bills. One provided that no alcoholic liquors shall be manufactured or sold containing more than 10 per cent of alcohol and the other recognizing the large quantity of alcohol in patent medicines, prohibited the sale of such medicines containing more than 10 per cent of alcohol except upon prescription. The law which increased the fee for Liquor Tax Certificates 25 per cent for the excise year ending October 1, 1916, was re-enacted and made permanent.

Out of some two hundred towns that voted, ten "DRY" towns returned to the license column while approximately ninety towns went from the license to the no-license column. In the majority of cases where license towns went "Dry" it was not due to an increase in "Dry" sentiment but to local conditions. A number of towns were also voted "Dry" through error on the part of the electors who had to handle several ballots. A noticeable feature of the local option elections was that many towns went "Dry" or "Wet" by a very narrow margin, sometimes the majority being two or three votes and, in one or two instances, a majority of one vote was recorded.

There are 932 townships in the State of New York, and at the present time three hundred and twenty have full license, four hundred and ninety-nine have no license and one hundred and thirteen have partial license, that is, saloons, stores, drug stores or hotels only.

Ohio.—The vote on the McDermott Act, providing for a district plan to decentralize the liquor license system, was 242,671 in favor, and 355,207 against a majority of 112,536 against the Act. The

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act had been passed by a "Dry" legislature and approved by the Governor, an admitted prohibitionist.

Constitutional State prohibition of the manufacture and sale of intoxicating liquors was submitted in practically the same form as the Prohibition Amendment of 1914.

A constitutional Amendment, known as the "Stability Amendment," was also voted on. It provided that constitutional amendments twice defeated should not again be voted on in referendum elections until six years had elapsed. The Amendment was defeated by 64,891 majority, receiving a vote: Yes 417,382, No 482,273.

Under the Beals law elections were held with the following result:

Towns voting "wet": Adelphia, Bellevue, Blakeeslee, Bradnea, Carroll, Covington, Dennison (dry for 8 years), East Liverpool, Pastoria, Gilboa, Grove City (was dry), Hanoverton (was dry), Marysville, Mingo Junction, Republic, Rocky River, Steubenville (was dry), Struthers (was dry), Stryker, Tuscarawas, and Utica.

Towns voting "dry": Arberdeen (was wet), Agasta, Arcadia (was wet), Baltic, Beaver (was wet), Chagrin Falls, Cridersville, Crooksville, Farnersville (was wet), Geneva (was wet), Latty, Lisbon, Mason (was wet), McComb (was wet), Mineral City, Muscon (was wet), New Comers Town, North Lewisburg (was wet), Picketon (was wet), Port Washington, Quincy, Toronto, Uniopolis, Waterville, Wellsville, West Salem, and Wharton.

Townships voting dry: Amboy, Jackson, Licking, Paint, Solon, Swan Creek, Union, and Washington. All these townships were wet with the exception of Licking.

Oregon.—The so called "Bone Dry" prohibition amendment, which forbids any importation of liquors for beverage purposes, was carried at the November elections. The official result of the election was:

For	114,923
Against	109,671
Majority for	5,252

Multnomah county, in which Portland is located, voted against the Amendment by 9,775 majority.

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The vote on the Bill, to allow the manufacture and sale of beer, was:

Against	140,593
For	85,973
Majority against bill.....	54,620

Pennsylvania.—The Supreme Court ruled that the offering of Premiums for the return of caps, stoppers, corks, stamps or labels was illegal.

In Pennsylvania Liquor Licenses are granted only by the Court of Quarter Sessions in the county where the petition for license is made.

In Crawford county 37 retail licenses were issued but all wholesale licenses were refused. In Lawrence county, which had been dry for five years, 23 licenses were issued. New Castle in this county had been dry for six years. In Tioga county, "dry" one year, 12 licenses were granted.

In Jefferson county all licenses were refused, no reason being given. In Venango county all licenses were refused for the third year.

South Carolina.—The General Assembly passed a law, allowing any individual to obtain by transportation into the state each calendar month either two quarts of whiskey or five dozen pint bottles of beer. The Governor refused to sign this bill. His action leaves the limitation at one gallon spirituous, vinous, fermented or malted liquors every 30 days.

The Supreme Court decided that Malt Tonic may be delivered under the new Prohibition Law, holding that liquor which will not intoxicate by immoderate use because one using it would become sick before he becomes intoxicated "is not an intoxicating liquor" forbidden to be delivered within the State by the Act of February 20, 1915.

South Dakota.—The State voted in favor of Prohibition at the November election.

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The official returns were:

Dry	64,867
Wet	53,092
Majority in favor of prohibition.....	11,775

Texas.—The Democratic Primary Election occurring in Texas July 22, 1916, indicated an indorsement of Governor Ferguson's stand against any further agitation for liquor legislation either Pro or Anti in the legislature. Governor Ferguson was nominated in 1914 on a platform promising to veto all liquor legislation; his majority at that time was 40,000. He defeated the Anti-Saloon League candidate in the 1916 primaries by a majority of 66,081.

At the same election the question of National Prohibition was prominently before the people in the contest for Senator Culberson's seat in the United States Senate. Senator Culberson declared himself opposed to National Prohibition. He was opposed by three candidates favoring nation-wide prohibition and two candidates opposing it. The candidates favoring nation-wide prohibition polled 153,328 votes, those opposing nation-wide prohibition polled 240,178 votes, showing a majority of 86,850 against National Prohibition. The two highest candidates for this office were required to run a second race under the Texas laws, a majority being required to nominate, in which contest both candidates were opposed to nation-wide prohibition. Senator Culberson was successful in the second primary.

The question of submitting a State-wide prohibition amendment by the legislature to the people in 1917 was passed on by the voters in the Democratic Primary, the vote being for submission 176,926 and against submission 173,962. The law of Texas requires that such amendment must receive a majority of all the votes cast in the primary before it becomes binding upon the members of the legislature and submission received 30,047 votes less than a majority of those participating in the Primary. The Democratic State Convention, for this reason, voted down the effort of the Anti-Saloon League to make the submission of a constitutional amendment a Democratic platform demand upon the Legislature.

LEGAL DECISIONS

The court of civil appeals held that a contract whereby a brewery company agreed to give an individual the exclusive right to sell its beer was not violative, as a conspiracy in restraint of trade, of the Texas Anti-Trust Act. A brewery may compel sole sale of its beer by refusing to renew a lease.

The Court of Criminal Appeals held that one was not guilty of violating the Local Option Law unless he sells an intoxicant or a liquor which, when taken in reasonable quantities, will intoxicate.

ELECTIONS

Counties or Precincts voting "wet": Calhoun county, Eagle Lake precinct, Basling county, Crosby precinct, Karnes county, Runge county, Tarrant county and Texas City precinct.

Counties or Precincts voting "dry": Aransas county, Bee county, Pell county, Jim Wells county (in courts), Mecas county, and San Patricio county.

In a local option election in Tarrant county, September 2, 1916, prohibition was defeated by a large majority. The county vote outside of Fort Worth was about 1,400, of which about 800 stood in favor of prohibition and about 600 against. But the city of Fort Worth went wet, casting about 4,800 against prohibition to about 2,300 in favor.

Utah.—Both the Democratic and Republican platforms contain planks pledging the incoming Legislature to enact a State-wide prohibition law within six months from the time the legislature meets in January, 1917.

Therefore it seems certain that such a law will become effective by July or August, 1917.

There have been no important changes, because of local option elections held in the State, except that several small villages voted for license.

Vermont.—Prohibition was defeated by a majority of 13,164 votes at an election held March 7th, 1916. The vote was on the

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question of re-enacting the prohibitory amendment which was first placed on statute books in 1852 and which was repealed in 1903 by a majority of 729.

The 1916 election showed 18,503 votes for prohibition and 31,667 against prohibition.

Dade county voted no license.

Virginia.—By a vote of 85 to 5 the lower branch of the General Assembly, on March 4, passed the State-wide prohibition bill practically as it came from the Senate. The bill provides for the creation of a commissioner of prohibition whose duty will be to see that the law is enforced. The law was effective on November 1st. The bill was attacked because it did not carry out what the people voted for in the Enabling Act. An amendment to submit this bill to a vote of the people was defeated. One quart of liquor, one gallon of wine or three gallons of beer is the amount named in the bill that may be received by any person during one month. No liquor can be sold, stored, furnished, or given away in any club, apartment or other place. Jail terms, in addition to heavy fines, are the penalties for violations.

Washington.—Both Anti-prohibition amendments were defeated at the November elections.

Amendment No. 18, provided for the selling of both beer and liquors by hotels. The complete vote was:

Against	261,143
For	48,292
Majority against the amendment	212,851

Amendment No. 24 provided for the manufacture of beer and sale direct from the brewery to the consumer. The complete vote was:

Against	242,206
For	98,317
Majority against the amendment.....	143,889

West Virginia.—The Supreme Court declared constitutional that section of the liquor law which prohibits liquor dealers outside

the State from advertising their goods in West Virginia by circular letters and order blanks.

The Court of Appeals decided that common carriers may ship liquor into the State, provided the packages were properly labeled, or were the personal property, as baggage of travelers.

The Court of Appeals held that it was not unlawful for a citizen to carry one-half gallon of intoxicating liquors without a statutory labels or more with such label along a highway to his home for personal use.

Wisconsin.—The following municipalities voted license at the elections: Alma Center, Antizo, Ashland, Augusta, Baldwin, Bayfield, Beloit, Branden, Campbellport, Cedar Grove, Columbus, Driggsville, Ellsworth, Fairchild, Fairwater, Fox Lake, Glenwood, Hammond, Hancock, Independence, Lake Mills, Lima, Mondovi, Oastburg, Philips, Richford, Salem, Trempealeau, Turtle Lake, Wantoma, Westfield, and Whitewater.

The following no license: Almond, Arlington, Boyceville, Brule, Clayton, Dalton, Downing, Emerald, Fall River, Galesville, Green Lake, Hudson, Kingston, Nebagamon, New Richmond, North Hudson, Omro, Pachwaukee, Pardeerville, Parklan, Plainfield, Randolph, River Falls, Superior, and Westfield.

United States.—Attorneys general of 15 states on Feb. 23rd filed with the U. S. Supreme Court at Washington a joint argument to support the constitutionality of the West Virginia Liquor Law, prohibiting the receipt and possession of liquors for personal use and of the Federal Webb-Kenyon Act, prohibiting the shipping of liquors in violation of state laws.

The Vice President as President of the United States Senate ruled against a "rider" amendment to the post office appropriation bill prohibiting the use of the mails to newspapers seeking to carry liquor advertisements from a wet to a dry State. Upon an appeal from the decision of the chair the Senate sustained the ruling.

Respectfully submitted,

WALTER A. CARL, *Chairman.* S. B. FOSTER.

SPENCER H. OVER.

JOSEPH A. WEIBEL.

R. L. AUTREY.

HUGH F. FOX, *Secretary.*

THE UNITED STATES BREWERS' ASSOCIATION

RULINGS RELATING TO THE BREWING TRADE

REPORT OF THE ADVISORY COMMITTEE

(Presented at the United States Brewers' Convention, Cleveland, Ohio,
November 21, 1916)

Many inquiries having been received from members as to the import of recent rulings of the Treasury Department concerning the character of packages or containers, in which malt beverages containing less than one-half of one per cent of alcohol could be removed from brewery premises, your Advisory Committee consulted the counsel of the association on this matter. The committee is advised by the counsel that the Commissioner of Internal Revenue has not ruled that such beverages, produced concurrently with the regular product, can be removed from the brewery in the ordinary beer keg.

BEER KEGS NOT TO BE USED

The prevailing instructions on this point are those contained in Treasury Decision 1360, which are to the effect that "the temperance beverage, when removed from the brewery premises, must be contained in packages unlike those ordinarily used for fermented regular beer cooperage may be remodeled or new packages may be removed in cans, whiskey or vinegar barrels, or in any other containers except the regular beer cooperage. If it is desirable to have packages of extra strength on account of the high pressure, the regular beer cooperage may be remodeled or new packages may be made out of materials similar to those employed in the manufacture of beer packages, the shape being so modified as to make them readily distinguishable from the latter. The mere painting of beer packages is not a sufficient distinction.

It is to be understood, of course, that the so-called temperance beverage can be removed to the bottling house by way of a pipe line, pursuant to the Act of September 8, 1916, amendatory of Section 3354, R. S., as amended by the Act of June 18, 1890, such

removal to be in compliance with Treasury Decision 2359, from which the following is quoted:

Such transfer is to be made under rules and regulations to be from time to time prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury. Until the promulgation of such rules and regulations more in detail it is hereby prescribed that until further notice brewers having an established pipe line for the transfer of fermented liquors may set aside and utilize one or more cisterns pertaining thereto for containing the non-taxable liquor above referred to for transfer through the pipe line for the sole purpose of the bottling under the same conditions and restrictions as now apply to the transfer of fermented liquor, except that the deputy collector in attendance shall first satisfy himself that the liquid about to be transferred is of the nontaxable kind, in which case it will not be necessary for him to note the quantity or to require payment of tax thereon. He will, however, be required to see that the inlets and outlets of the various cisterns are so controlled by the Slight seal locks provided therefor that there shall be no opportunity to utilize the pipe line for the transfer of fermented liquors except such as have been duly covered by the cancellation and delivery to him of the appropriate stamps.

RULING ON NON-ALCOHOLIC-BEVERAGES

There was also referred to your Committee by the Board of Trustees the question of obtaining a broader ruling relative to the taxation of non-alcoholic beers. The co-operation of the counsel of the association was likewise secured in this matter with the result that the Commissioner extended the scope of an earlier regulation, under which such beverages were taxed, if at any time during the process of manufacture, more than one half of one per cent of alcohol developed. Under the revised ruling, if the beer when finished and ready for sale, does not contain more than one-half of one per cent of alcohol, it will be regarded as non-taxable, irrespective

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of whatever alcoholic content developed in the process of manufacture.

The Internal Revenue authorities have found occasion to issue warning that beverages, which may develop more than one-half of one per cent of alcohol after being placed on the market cannot be regarded as non-taxable.

The burden is on the brewer not only to know that the beverage which he sends out unstamped is within the limit, but also to know that the condition of the liquor is such that no increase in the alcoholic content can take place after the beverage leaves his premises sufficient to remove it from the non-taxable class. In all cases where beverages containing alcohol in excess of the limit are found on the market, the brewer who produced the same will be held liable to the tax thereon, the packages with their contents will be subject to seizure and forfeiture, and the brewer will be liable to prosecution.

STATE LAWS ON MALT BEVERAGES

It is thought proper to present herewith a complete statement of the limitations imposed upon malt beverages by prohibition States or those having large areas of dry territory.

Alabama.—New Prohibition Law effective January 1, 1916, includes in the term "Prohibited liquors and beverages," malt, fermented or brewed liquors of any name or description manufactured wholly or in part or from any substitute therefor; such as near beers or malt tonics by whatever name called.

Arizona.—Prohibits the introduction into the State of any malt liquors or imitation malt liquors under any circumstances. However, by a Supreme Court decision, liquors may be introduced for the personal use of the consignee. An affidavit is required from the shipper at the shipping point and an affidavit from the consignee at destination showing that the shipments are intended for lawful personal use.

Colorado.—Defines "intoxicating liquors" as including all fermented or malt liquors. No limitation on shipments for personal use.

Georgia.—Law effective May 1, 1916, similar to the Alabama prohibitory law given above.

Idaho.—Malt and fermented liquors are declared as a matter of law to be intoxicating, and for which no proof is required, that they come under the head of prohibited liquors, except to show that they come within the enumeration. It is conceded that "near-beer" is a malt liquor; it follows therefore that it falls within the prohibitory law and cannot be sold in the State. The only liquor that may be shipped into the State is pure alcohol for scientific and mechanical purposes, under permit, and sacramental wine for religious purposes.

Iowa.—Construes "intoxicating liquors" to mean, ale, beer and malt liquors. No limitations on shipments for personal use. Prohibits the collection of liquor bills within the State.

Louisiana.—Prohibits the sale of near beer in dry territory; effective August 1, 1916.

Mississippi.—House Bill No. 264, effective April 15, 1916, prohibits, among other things, any form of liquor advertising, and allows the shipments of three gallons of malt liquors every 15 days.

Oregon.—Construes "intoxicating liquors" to embrace all malt or fermented liquors; and dry compounds which may, by the addition of water, produce any fermentation, or intoxicating liquor. Twenty-four quarts of malt liquor may be shipped into the State for personal use within four successive weeks. (Indications are that at the recent election a law forbidding the importation of any alcoholic beverages whatsoever, was adopted by referendum vote.)

South Carolina.—The words "alcoholic liquors and beverages" as used in the new prohibition law, include any beer or beverage, whether fermented or otherwise, by whatsoever name known or called which will produce intoxication, or which contains in excess of one percentum of alcohol. Shipments of one gallon of malt liquors are permitted in any calendar month.

Virginia.—The legislature enacted a prohibitory law, which exceeded in its drastic measures the provision of the Enabling Act,

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adopted by popular vote. The Enabling Act provided for the manufacture of malt liquors containing not more than $3\frac{1}{2}$ per centum of alcohol for sale outside of the State. Under Chapter 146, of the Laws of 1916, the manufacture and sale of *all* malt liquors is forbidden as well as advertising of any kind of liquors, and statements concerning the liquor traffic are not allowed if compensation is given unless marked "paid advertisement." Shipments of beer for personal use must be confined to three gallons once a month. Cider may be sold only if it contains less than 1 per centum of alcohol, and Jamaica Ginger only by druggists upon a physician's prescription. The law became effective November 1st.

Washington.—The phrase "intoxicating liquor" as used in the prohibitory Act, includes ale, beer and any fermented or malt liquor. Twenty-four pints of beer may be shipped into the State in any 20-day period. Effective January 1, 1916.

DEVELOPMENT OF THE BOTTLED BEER TRADE

In the last twelve months the sale of beer in bottles has increased extensively, particularly in the East, due in the main to publicity. Stress has been laid on the food value, healthful qualities, temperance character, and scientifically clean process of manufacture with gratifying results.

Little shipping is done into "dry" States, for the reason that the amount of beer allowed a person each month in most of such jurisdictions, is too small to make it worth while to go after the business. Bulk shipments are made to distributing points near "dry" States and districts, but the amount actually intended for such States and districts is difficult to determine accurately.

RETURN OF BOTTLES

Your committee has been active during the year, as opportunity presented, in endeavoring to develop among the brewers of the country the practice of charging for bottles and while the custom is not as generally observed as is desirable we feel that the brewers are coming more and more to recognize the impressive saving that it

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effects. Wherever the practice has been adopted, the saving is quickly apparent.

The distributor and the consumer are coming more and more to recognize the soundness and reasonableness of the practice, and are less and less inclined to object.

The committee has impressive figures of the saving that is effected by the system of charging for bottles, which it will be very glad to furnish to any brewer or set of brewers who desire some further light on this question.

DRUGS

The United States Supreme Court has handed down an interpretation of the clause of the Harrison Federal Drug Act of 1914, making it unlawful for any person not registered under the law to have opium in his possession, ruling that this applies only to those who deal in the drug and not to those who use it.

In announcing the opinion Mr. Justice Holmes said that "only words from which there is no escape could warrant the conclusion that Congress meant to strain its powers almost, if not quite, to the breaking point in order to make the probably very large proportion of citizens who have some preparation of opium in their possession criminal."

If we substitute for the word "opium" the words "intoxicating liquors," it will be seen that the possession of the latter article by private individuals should be protected, and only liquor in the hands of dealers should be affected by the laws of the various States regarding the matter. This new decision seemingly establishes an important precedent.

COCA COLA

The United States Supreme Court has decided against contentions of the Coca Cola Company of Atlanta, Ga., holding that caffeine introduced into a syrup during the second or third malting is an "added" ingredient within the meaning of the Federal Food and Drug Act of 1906, condemning as adulterated any article of food that contains "any added poisonous or other added deleterious ingredient which may render such article injurious to health,"

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although it is called for as a constituent by the secret formula under which the syrup is compounded. The name Coca Cola cannot be said as a matter of law to be distinctive rather than descriptive of a compound with coca cola ingredients so as to escape condemnation, under the Food and Drugs Act, as misbranded in case of the absence of either coca or cola. This case was reversed and remanded for further proceedings.

CANADA'S BRAND OF PROHIBITION

Under the guise of war measures prohibition laws have lately been forced upon almost all of Canada, the Province of Quebec being the notable exception. It is to be noted, however, that prohibition in Canada is a very different thing from prohibition in the United States, where any beverage containing one-half of one per cent or more of alcohol is sought to be put under the ban. A number of States even go to the extent of forbidding all malt beverages of whatsoever description.

The law of Ontario may be taken as a sample of the Canadian system. The act does not touch any liquor containing less than $2\frac{1}{2}$ per cent proof spirits, equal to 1.43 per cent of alcohol by volume, or 1.13 per cent by weight. Such beverages may be manufactured anywhere and sold even without the payment of special license fees. Beer having the usual percentage of alcohol, may be manufactured in the Province for export, and may be imported for personal use and consumption. Ontario's law also contains a special concession to the wine growers of the Province, though their product at times runs as high in alcohol as 23 per cent by proof. Manitoba's standard of alcoholic content is the same as that of Ontario. Saskatchewan prohibits beverages containing more than 1 per cent by weight. New Brunswick, where the law will come into effect May 1, 1917, fixes its standard at 2 per cent by weight. It is apparent that a market can be found in Canada for beers having a low percentage of alcohol.

THE EUROPEAN SITUATION

There has been little change during the year in the situation in the European countries, the tendency among the warring nations

and those at peace as well, being to place severe restrictions around the sale of ardent spirits, and to encourage the use of beers and light wines by discriminatory taxation. In Russia, which has been loudly proclaimed as a prohibition country because of the ban on vodka and other strong liquors, the Duma recently adopted a measure intended to give the popular approval to the Czar's prohibition rescript or decree. It is significant that this measure expressly exempted beverages containing under 12 per cent of alcohol from the operations of the prohibitory system.

In France, legislation which has affected liquor bears a fiscal aspect entirely. While very light taxes are imposed upon the native wines and beers, the tax on spirituous liquors has been quite heavily increased, and household distillation will bear its share of these burdens.

The Central Control Board (Liquor) of Great Britain has from time to time increased the area of its operations, and as a consequence has taken over a large number of public houses during the year. While some of the board's measures have evoked strong protest from the retail trade and the manufacturers as well, there seems to be no substantial basis for believing that it is working toward prohibition in any form. The board has in its activities encouraged the use of the lighter alcoholics as against the strong liquors.

Germany, France, Austria-Hungary and Great Britain continue to serve liquor rations to their soldiers. In France the wine ration has recently been increased.

Respectfully submitted.

JAMES R. NICHOLSON, *Chairman*.

GUSTAV W. LEMBECK,

WILLIAM HOFFMANN,

LOUIS B. SCHRAM,

N. W. KENDALL,

HUGH F. FOX, *Secretary*.

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A CORRECTION

In the Year Book of the United States Brewers' Association for 1915, a brief reference was made to the eighth annual meeting of the Association of Life Insurance Presidents held in New York on December 10-11, 1914. Through an unfortunate error Mr. Arthur Hunter was represented as having made, at this meeting, certain statements that he actually did not make, in the course of an address upon the subject, "Can Insurance Experience Be Applied to Lengthen Life?" This error arose through a confusion of comments made by another person upon Mr. Hunter's paper, with the actual statements of that gentleman. It is a matter of keen regret that Mr. Hunter was misrepresented, in any degree, in the pages of the Year Book, and this correction is offered in the hope that any false impression which may have been created through the mistake may be removed. It is the aim and desire to have the Year Book contain only fact and reasonable deduction therefrom and comment thereupon.

THE YEAR IN EUROPE

The chief European developments with regard to liquor, during the year 1916, will be found in the appended summary :

GREAT BRITAIN

While the operations of the Board of Control (Liquor) were watched with great interest throughout the year, the chief development was the prospect of the complete Nationalization, by purchase, of the entire trade in alcoholic beverages. Although it is generally agreed that such a step would involve the payment of from £200,000,000 to £250,000,000 (roughly equivalent to \$1,000,000,000 to \$1,250,000,000) the movement had the support of many influential organizations, including the Church of England Temperance Society, and it is known that some of the strongest men in the present Government favor it. In fact, it is believed that the Government is committed to the proposition though the details have not yet been worked out for formulation in a Parliamentary bill. The payment for breweries and distilleries would be, it may be presumed, on the basis of the average value of the stock of such corporations, for the three years prior to the war. This is the standard heretofore employed. Where such a basis does not exist, appraisals would fix values. The money would probably be raised by debenture bonds. The present disposition does not seem to be that the various establishments shall be operated for a profit sufficient to meet the cost of the undertaking, but that they shall be run simply in response to the public need. Of course many distilling plants could be utilized for the production of alcohol for munition purposes at present and for denatured alcohol after the war.

The operations of the Board of Control have prepared the public for what otherwise would be regarded as a most revolutionary proceeding. The Board has taken over hundreds of public

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houses, many of which it has closed after payment of compensation and many of which it conducts upon its own lines. It has also taken over many distilleries, which have been turned over to the Munitions Department after due payment. The policy pursued by the Board in the conduct of the public houses which it controls directly, and in which the sale of distilled liquors is discontinued though beer and light wine are sold in the same manner as tea and coffee, may predicate the policy of Government, when it comes to take over the conduct of the whole trade.

It should be noted that the principle of compensation is firmly established in Great Britain. Even the prohibitionists provide for it in the programs which they persistently present to Parliament.

FRANCE

Further restrictions were placed about the manufacture and sale of spirituous liquors during the year and, in particular, measures were adopted with a view to minimizing household distillation by heavy increases of the tax on the product and by requiring more elaborate formalities in the way of registration. The tax on wines and beers was slightly increased, apparently for revenue purpose alone, as the wine ration to the soldiers was increased. At the close of the year rumors were current that the Government would forbid the manufacture and sale of the heavy alcoholics, including the fortified wines as well as the distilled liquors, but would allow natural wines, beers, cider and perry to be produced as heretofore as they have always been classed as "hygienic beverages" and officially denominated as such.

GERMANY

Owing to the restrictions in the use of grains, etc., the production of all spirituous liquors was reduced to a minimum and it was apparently regarded as unnecessary to add to the already severe regulations restricting their manufacture and sale. The conservation of the grain supply rendered necessary a further curtailment in the quantities of materials which brewers were permitted

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to use and a consequent marked decrease in the output of beer. It was estimated that the production was equivalent to 30 per cent of that in the last year of peace, and, as the Government insisted upon requisitioning half of this diminished output for the soldiers in the field, there was much complaint among the civilian population at times. The wine production showed an increase in certain districts but not enough to offset in any material degree the decrease in the output of beer.

AUSTRIA-HUNGARY

In general the situation closely paralleled that of Germany. The vintage was larger in many sections, but the falling off in the beer output, due to the hoarding of grains for bread making and other food purposes, was severely felt by the populations of the several States. Few important changes in the regulations were noted.

RUSSIA

The chief event of the year was the passage by the Duma of a law intended to give the stamp of popular approval to the Czar's decree of the prohibition of spirituous liquors. By this measure the prohibition of the manufacture and sale of vodka is continued, but there is a special exemption of beverages containing not more than 12 per cent of alcohol. This permits the sale of beers and natural wines all over the Empire where local option does not prevent, and as a matter of fact there is a large trade in such beverages in many districts and has been, for the Czar's decree applied only to the heavier alcoholics. Over vast areas with large populations, however, no alcoholic beverages are obtainable legally. In consequence there has sprung up an enormous illicit traffic, which, in conjunction with the consumption of noxious substitutes, has been productive of such evils, physical and moral, that the movement for the resumption of the manufacture and sale of vodka has received support from a number of persons who view the problem from the sociological standpoint as well as those who look at it only in its fiscal aspect. It is believed by many, however, that as the harmless wines and beers show promise of

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being used more extensively, there will be no necessity for raising the ban upon vodka.

ITALY

Except for increased taxes applied to alcoholic beverages in common with almost all articles of commerce, and for regulations which tend to restrict the use of spirits, there has been little change in the situation in Italy respecting liquors. There have been, however, great reductions in the number of drinking places in Rome, Naples, Milan, and other important cities. Regular rations of wine are issued to the army.

SWEDEN

Near the close of the year the city Council of Stockholm renewed the monopoly for a three-year term of the Stockholm System Company, thus setting the municipal stamp of approval on the Bratt system of personal control. This system provides that only persons to whom cards or permits are issued can purchase spirits and these only at certain times and in certain amounts. Reports show that the sale of spirits in Stockholm fell from 5,602,397 litres in 1913 to 3,422,098 litres in 1915; cases of chronic alcoholism from 492 to 173; cases of delirium tremens from 625 to 363; arrests for drunkenness from 17,000 to 11,323.

NORWAY

It is said to be the intention of the Government to extend the local option system to new areas. The operation of the system of discrimination in the taxing and sale regulation of liquors in accordance with their alcoholic strength is said to have sensibly reduced drunkenness and other evils springing from over-indulgence.

CANADA'S BRAND OF PROHIBITION

By J. H. Long

As the United States and Canada are united by many ties of friendship, commercial interest and social intercourse, the recent adoption, by many of the provinces, of legislation aimed at the traffic in liquors, has excited great interest in this country. That the Dominion, with the exception of the Province of Quebec and the Territory of Yukon, has gone "dry" seems to be the general though erroneous opinion prevailing in the United States. It is true that seven of the provinces have adopted laws which are prohibitory in form, but prohibition as understood, or at least enacted in Canada, differs in several important particulars from prohibition as understood and written into law in the domain of Uncle Sam.

The several States of the Union which have legislated against the manufacture and sale of intoxicating liquors have almost invariably defined as such those liquors containing more than $\frac{1}{2}$ of 1 per cent of alcohol. This is the standard employed by the Federal Government in collecting the Internal Revenue tax on liquors as they are manufactured. It is based, by the way, on no scientific ascertainment of the proportion of alcohol required to make a liquor intoxicating, but was established and is maintained simply as a convenient measurement for the levying and collecting of a part of the governmental taxes. In other words, the standard was adopted for fiscal reasons solely. The Canadian provinces which are commonly classed as prohibition have recognized that a much greater proportion of alcohol is required to produce intoxication, and therefore have set a much higher standard in their recent legislation. In most of the provinces the standard is $2\frac{1}{2}$ per cent proof spirits, equivalent to 1.43 per cent of alcohol measured by volume; in one it is 1 per cent, in another 2 per cent and in still another 3 per cent proof.

Thus the Canadian prohibition laws do not interfere with the

sale of a light grade of beer, and such beer is to-day being sold throughout the Dominion, not only without a tax on the manufacturer thereof, but also without the payment of special licenses or excise fees by the retailers. The brewers pay a special excise tax of three cents per pound on all malt, used in brewing, without regard to the character of the product.

Again, the Canadian prohibition laws are aimed solely at the sale of intoxicants and not at the manufacture or importation thereof. There are two reasons for this. One is that any regulations of the manufacture and importation of liquors—and necessarily also any measures looking to their restriction or prohibition—have been held to be more properly and logically within the domain of the Dominion as a whole, rather than of the provinces. Another is that the prohibition fight in Canada has never been directed against alcoholic beverages as such, but against the manner in which they have been dispensed at retail. "Abolish the Bar!" is the slogan which has been sounded at rallies, which has been blazoned forth by the newspapers espousing the cause, and which has won thousands of adherents who would resent bitterly anything which would interfere with their own method of drinking. It must not be understood that there is no sentiment in favor of absolute prohibition. On the contrary there are extremists who call upon the Dominion Government to prohibit the manufacture and importation of alcoholics, and thus make the whole country "dry." But this element, lacking the aid of those who simply objected to the abuses in the retail trade, is not now in a position to enforce its demands.

Further, there are express and implied exemptions in most of the Canadian prohibitory laws. Ontario may be cited as an example. The large wine growing interest is permitted to manufacture, as usual, and also to sell in quantities of not less than five gallons, its product, which has a very high alcoholic content, ranging from 20 to 25 proof spirits.

There is still another difference between Canadian and United States prohibition. The Dominion Parliament, some years ago, enacted what is known as the Scott liquor act, a sort of home rule proposition, giving the district adopting it certain powers of regulating the traffic. Under the legal theory prevailing in Canada,

Dominion laws supersede, or are unaffected by, provincial laws. Thus the districts which choose to retain the Scott act can do so, despite Provincial prohibition.

The sudden and practically simultaneous adoption of a common form of prohibition legislation by so many of the Canadian provinces is an illustration of the way in which the European war has affected the Dominion. There was prohibition sentiment before the war, but it can not be said to have made much headway except in distinctly rural districts. But when the shadows of the great conflict fell across the land of the north, a different sentiment was evident, of which the shrewd politicians, who headed the prohibition movement, were not slow to take advantage. Battalion after battalion, regiment after regiment, division after division, recruited, spent a season in the great camps and sailed away. The best blood of the Northwest coast; of the golden grain regions of Alberta, Saskatchewan and Manitoba; of the mining districts, the fruit belt and the bustling cities of Ontario; of the quaintly picturesque farms and thriving ports of the Maritime Provinces, was in the legions that constantly filled and departed. A great sadness came over the country; social gatherings were discontinued, merry making was discountenanced and Canada accepted the war in a spirit of grim resolution which was only intensified when the reports began to come in of the exploits of the Canadian troops and of their frightful losses at Ypres. Soon Toronto alone recorded 8,000 of her sons fallen in battle, many never to rise again. By and by the returning ships began to bring home their loads of crippled men, who henceforth were to bear visible witness in the highways and market places to the effects of the war. The cry went up that nothing was too much to give up that the sacrifices of living and dead, might not be in vain. Liquor was classed as a luxury and associated with the pleasurable occasions of life. Canada was casting aside luxury and was done for the time being with the pursuit of pleasure. And so prohibition was brought about, as it were, over night.

Some of the very measures taken to restrict the use of liquor and prevent its abuse, helped to bring about the major result. In most of the cities trade at the bars was limited to a few hours of the day. The "open" hours consequently witnessed great throngs

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at each bar, with men struggling to get their orders filled. It was not an inviting spectacle, of course, and the disorder and altercations which inevitably took place had their part in confirming the general public hostility. The soldiers themselves did not share this feeling and it was asserted that had they had a chance to vote thereupon, the prohibition measures would have been defeated. However that may be, the measures were adopted by the Provincial Legislatures and the only concession to soldier sentiment was in the provisions for popular votes some years hence.

As action in each province differed somewhat from that taken in the others, the case of each prohibition measure will be considered individually:

ALBERTA

Under the provisions of The Direct Legislation Act of 1913 there was submitted to the electorate a Provincial Prohibition Bill. This was carried by a large majority, in consequence of which the Legislature in 1916 passed "The Liquor Act" which came into force on July 1, 1916. Its provisions are virtually those of the Manitoba Act, which, with exceptions for medical, sacramental and manufacturing purposes, prohibits the sale of intoxicating liquor, any liquor being held under the Alberta Act to be intoxicating which contains more than two and a half per cent of proof spirits. There is one difference, however, between the two Acts: in Alberta the permitted sales are made by venders appointed by the government, and in Manitoba by druggists.

BRITISH COLUMBIA

At the last session of the Legislature there was passed an act prohibiting provincial transactions in liquor. This is virtually the Manitoba Act, and was to come into force on July 1, 1917.

At the time of the passage of this Act, however, a bill was submitted to give women the franchise. The vote showed a majority in favor of prohibition; but by another act, the questions of Prohibition and Woman's Suffrage were both submitted to the soldiers

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serving in the war. At the time of writing no return of the soldiers' vote is obtainable.

MANITOBA

The original of the present Manitoba Act, the model upon which most of the others have been framed, was passed July 5, 1900. This, however, was declared unconstitutional by the Provincial Courts, Feb. 23, 1901; but The Privy Council, the highest court in the Empire, upon appeal, sustained its constitutionality.

Whether it should be put into effect was submitted to popular vote on April 2, 1902, with a majority for the negative.

Nothing more was done until, on March 10, 1916, "the question of the expediency of suppressing the liquor traffic in Manitoba by prohibiting Provincial transactions in liquor," was submitted to the electors, and was carried in the affirmative by a large majority. The Temperance Act, as it stands to-day, was then put into force June 1, 1916.

NEW BRUNSWICK

In 1916 an act for the suppression of the Provincial traffic in intoxicating liquor having more than 2 per cent proof spirit by weight, provision, however, being made for the sale, through government licensees, for medical, mechanical and sacramental purposes, was passed by the New Brunswick Legislature. This Act was a war measure, and is to come into effect May 1, 1917. After the declaration of peace and the Act has been in force for a time sufficient to test it, an election may be held to determine whether it shall be continued. This Act does not app'y to Scott Act districts until and unless the Scott Act has been repealed.

NOVA SCOTIA

In 1916 an act was passed by the Nova Scotia Legislature repealing the Liquor License Act of 1900. This act of 1916 came into force on June 30th of that year, and applies to all parts of Nova Scotia where the Scott Act had not been in force. As a matter of fact, the city of Halifax, the capital of the Province, was

the only place under license, and it may be remarked that, under the Scott Act, the condition of affairs in Sydney and many other places had become particularly bad, virtually no attempt being made to enforce the law, and perjury and other evils being rampant.

What constitutes "intoxicating liquor" is, by the way, not specifically defined in the new Nova Scotia Act.

ONTARIO

The situation in Ontario, the premier Province of the Dominion, was very peculiar.

For years there had been a growing sentiment in favor of checking the admitted evils of intemperance, but the various remedies proposed were ineffective. "The Scott Act" had proved a failure, and one after another the municipalities had abandoned it. The unfairness and rancor of the prohibitionists had largely alienated the support of the real friends of temperance, while clerical denunciations of all those who drank even moderately had disgusted fair-minded men. Moreover, the diminution of drunkenness—due largely to the substitution of malt beverages in place of ardent spirits—gave grounds for the belief that time would do its healing work and accomplish what drastic legislation would not effect.

The extremists, however, could not wait, and so in July, 1914, an election was held chiefly on the question of prohibition, Sir James Whitney, the Premier at that time, and his party opposing the measure. The result was that it was defeated by a large majority.

Shortly afterwards, however, the war broke out, and Ontario sent her tens of thousands to the front. Of these the great majority, especially at first, were natives of the British Isles, particularly of England; men who had been accustomed to the temperate use of beer and who had very recently voted against Prohibition.

The prohibitionists, then, it was alleged, seeing an opportunity of winning a snap judgment, became at once unusually active, using the war as a battle cry. The unfairness of introducing a Prohibitory Bill while so many of the voters were away and when a verdict averse to Prohibition had so lately been pronounced by the electorate was strongly urged, but the commanding figure of Sir

James Whitney was no longer to be found at the council board, for death had robbed Ontario of her great premier. Much to the surprise and disgust of many of his followers, Mr. Hearst, the new leader of the government, adopted prohibition as his platform, and the act of 1916 was passed.

This measure known as "The Ontario Temperance Act of 1916" came into force on Sept. 17, 1916, and is virtually the Manitoba Act, with this distinction, the permitted sales are in the hands of government vendors instead of in the hands of druggists. Ontario is, therefore, now under Prohibition, the bars being abolished, and sales of liquor containing more than $2\frac{1}{2}$ per cent of proof spirit, except for medical, sacramental and mechanical purposes, not being allowed. This bill was passed ostensibly as a war measure, and provision is made for a plebiscite to be taken in June, 1919, upon the question of its repeal or continuance, so that the returned soldiers will have an opportunity of casting their vote.

Several things, however, must be noted in connection with this so-called Prohibitory Act. (1) Liquor having $2\frac{1}{2}$ per cent or less of proof spirit may be bought or sold by any one. (2) There is no prohibition of the importation of any liquors. All that one has to do is simply to give an order to an outside agency of an Ontario concern and he will receive at once by express from Quebec or elsewhere whatever is ordered. Indeed the liquor need not leave Ontario, it being held that the act does not prevent a sale, by an extra-provincial vendor, of liquor manufactured by Ontario parties and remaining in that province. (3) Ample provision is made for sales for scientific, medical, mechanical and sacramental purposes. (4) The sale of native wines in stated quantities, as previously mentioned, is permitted.

Taken all in all, then, the people of Ontario are not likely to die of thirst.

PRINCE EDWARD ISLAND

In 1907 the Provincial Legislature passed an act consolidating, as the saying goes, a law adopted in 1900 prohibiting the sale of liquor except by vendors appointed by the government who may not sell

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for beverage purposes. Liquor, under this Act, was defined as having more than three per cent of alcohol by volume.

In 1915 an amendment was passed leaving open the question as to what is, and what is not, intoxicating liquor.

QUEBEC

The Province of Quebec has so far refused to adopt Prohibition. Many municipalities have had local option for some time. Indeed, there are 976 "dry" municipalities and 182 "wet." The chief cities remain "wet."

As to the effect of local option in Quebec authorities differ: some claiming it has proved a success, others that it is a failure. Here as elsewhere it is a matter chiefly of the sentiment of the individual community. If sentiment is overwhelmingly in favor of the measure, it works fairly well; if not, enforcement is impossible. In the latter case there are the usual and well-founded complaints of perjury, illicit selling, and kindred evils. Indeed it has been freely stated that one main reason for the reluctance of Quebec to adopt provincial prohibition is that liquor may be obtained everywhere without difficulty. Again, statistics do not seem to bear out the statement that crime has diminished in "dry" districts. Indeed, the contrary would seem to be the case.

Quebec, by reason of its immense French population—a population opposed, in general, to sumptuary legislation—will be loth to adopt Prohibition. The people are not a drunken people and such stringent laws appear to them unnecessary. Unfortunately, there is a large consumption of the strong "whiskey blanc" of the country, but the taste for beer and other light beverages is increasing; which fact augurs well for the growth of rational temperance.

SASKATCHEWAN

In June, 1915, there was passed the act known as "The Sales of Liquor Act," which came into force on July 1, 1915. Its object is to abate some of the evils of the liquor traffic by closing the bars and establishing a system of government control, government shops

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being established for the sale of liquor in sealed packages for consumption off the premises. Under this Act no person can obtain in one day more than 4 gallons of beer or other malt liquor, 2 gallons of wine, or one gallon or less than 16 fluid ounces of any other kind of liquor; "liquor" being defined as spirituous or fermented liquor containing more than 1 per cent of alcohol.

In December, 1916, however, Saskatchewan voted against continuing the 20 liquor stores or dispensaries controlled by the government, and in 6 months from that date they will be closed. Liquor thereafter can be obtained only from the outside.

YUKON

In the Yukon territory Prohibition was submitted to the electors in 1916, but was defeated. The license system remains in force, therefore.

THE DOMINION

As has been said, although the Liquor Question is, in the main, a local, that is, a Provincial matter, yet the Dominion Government has the jurisdiction over trade, manufactures, exports and imports; these being *ultra vires* of provincial legislation.

There is also the Dominion Act, popularly called "The Scott Act," passed in 1878, to which reference has been made, which, although it has almost always proved a failure, having been repealed in very many cases, is still in force in certain municipalities, and where in force, supersedes all Provincial Acts in any way conflicting therewith.

At the last session of the Dominion Parliament there was passed an act to assist the provinces in carrying out their legislation. Its provisions in regard thereto are very stringent and prohibit the importation of liquor to be used contrary to Provincial provisions. Every Province is very careful to state in its Acts that nothing therein shall conflict with Dominion legislation.

As in the United States the cry of the Prohibitionists is "On to Washington," so in Canada it is "On to Ottawa": which being interpreted means Dominion-wide Prohibition of manufacture, importation and sale.

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Meanwhile the Dominion Alliance, corresponding somewhat to the Anti-Saloon League, and other bodies, are agitating in various directions; for the suppression of liquor advertisements and the closing of the mails thereto, for the prevention of the importation of liquor into "dry" Provinces, and so on: these measures, if passed, to lead up eventually to a Dominion Prohibitory law, which shall take the place of all local laws, although many prohibitionists believe that under all circumstances the matter of sale should be left to the Provinces.

Whether these ends, so much desired by the Prohibitionists, shall be reached, or whether there shall be a reaction against sumptuary laws, especially when men after the war shall have returned to their normal frame of mind: all this "lies on the lap of the gods."

NEW FOUNDLAND

The Island of New Foundland (with its strip of the Labrador Coast) is, of course, not part of the Dominion of Canada; but as a British Colony and lying so near to the Dominion, it may not be amiss to state that Prohibition comes into effect Jan. 1, 1917. The Act prohibits the importation, manufacture and sale of intoxicating liquors, except, as elsewhere, for mechanical, sacramental and medicinal purposes: a long list of patent medicines, by the way, being placed under the ban. A public controller has been appointed by the government. Through this functionary medical prescriptions will be filled and supplies obtained for manufacturers, while provision is also made whereby churches can obtain wine for sacramental purposes. Elsewhere, physicians or magistrates will have charge of the supplies.

It is estimated that the loss in revenue will be about \$1,000,000 a year; but prohibitionists claim that about \$600,000 of this will be saved through a diminution of criminal and similar expenses. Whether this hope shall be realized, time alone can tell.

TEMPERANCE REFORM IN MEXICO UNDER THE NEW RÉGIME

By Luis Bossero

(In *Mexican Review*, for October, 1916)

Among the many reforms which are being undertaken by the leaders of the revolution, among the many changes which are being inaugurated, calculated to shape the future of Mexico, the questions of temperance and prohibition have been given a great deal of profound consideration. Like many other countries, Mexico too has been afflicted, and to a large extent still is, with the great evils resulting from overindulgence in strong, alcoholic beverages. This was realized by the Constitutionalist leaders from the first moment the constructive era began. It was evident to them that those were problems which could not be overlooked and of a nature demanding serious and immediate attention.

Unfortunately the drink evil in Mexico had peculiar native characteristics which were difficult to cope with. They were conditions resulting from centuries of indulgence in such nerve wrecking poisonous drinks as pulque, mescal and tequila. Those were beverages centuries old and naturally the common drink of the Indians and peons. Those drinks, especially pulque, were part of their daily life. Without the consumption of several pints of pulque the day was not complete. Thus it was that pulque became a national menace. And it was against this terrific evil that the present day leaders of Mexico had to make a determined stand.

In the days of the Diaz régime, when the welfare of the peons and Indians was given little consideration, the manufacture of pulque was encouraged by the Government. A pulque trust had been formed, which was known as the "Compania Pulqueria," which had rented and bought up the most advantageous establishments where pulque was sold or manufactured. Among the leaders of that trust it is claimed were a number of prominent government

officials. It was by the aid of this diabolic drink that the people were virtually kept in submission and ignorance. The pulque trust acted as a secret ally of the Government and "haciendados," helping both to keep a tight grip upon the miserable people. And because it was favored by the Government all those who opposed it, commercially or otherwise, were quietly disposed of. The company did a tremendous and very profitable business. At one period of its existence its fame had reached even as far as the Paris Board of Trade, where a great many of its shares were sold. This deplorable state of affairs lasted for some time. The advent of the revolution brought in its sweep a host of reformers, whose complaints against the existing state of affairs grew louder and more persistent. Besides a good many Americans and Europeans had noticed the tragic state of affairs. And while the Diaz Government cared little for the people, the good opinion of the foreigners meant a great deal. The result was that the Diaz Government decided to fight one evil by the introduction of another, and perhaps a much more dangerous one.

In those days whiskey was little known among the Indians and peons of Mexico. It is true a small quantity of it was imported, but it was mostly for the exclusive use of the foreigners. The populace was not acquainted with it and, in truth, cared little for it.

To counteract the pulque evil the authorities of the Diaz régime decided to introduce whiskey to the populace. As in all its affairs it proceeded in a characteristic Diaz manner. A concession was granted to a distilling company which was invited to come and manufacture its product in Mexico. The Cave Distilling Company of Kentucky, with its entire plant, was transported to the State of Chihuahua. As an inducement the Government gave the company 28 acres of land for the ridiculous sum of \$600 and promised that their wares would be given wide circulation and its use greatly encouraged. Thus it was that whiskey found its way to the "haciendas" of Mexico.

Soon, however, it was discovered that whiskey failed to cure the pulque evil. Instead it aggravated the problem of drink and made it more complicated and more serious. Instead of solving

the problem the Diaz authorities had plunged deeper and deeper into the inextricable depths of alcohol. They, unfortunately, failed to realize that it was a problem for students of sociology and not politicians.

Such was the state of affairs when the Constitutionalist leaders took charge of the country. The whole nation practically had been plunged to the depths of degradation by the constant overindulgence in such mind destroying drinks as pulque, mescal or tequila. Those who had succumbed to whiskey soon realized that it bore dangers equally as great as those of their native drinks, if not greater. As a result, it was quite natural that the first move to eradicate this national evil was to invoke total and absolute prohibition. It was a blind and desperate move.

In many States, controlled by the military chief, the manufacture and sale of whiskey, pulque, mescal and tequila were prohibited. The iron hand of the law took charge of the situation. Not only the civilian population, but even the members of the army, were held tight under the laws of absolute prohibition. It was a great period of experimentation which was keenly watched and studied by the authorities. All the evils resulting from total prohibition were soon discovered and the need of vital changes was made evident.

In truth the wise military chiefs realized that prohibition in reality does not prohibit and that there were thousands of ways by which the laws were being evaded. It was a state of affairs which could not be cured by drastic laws alone, but one demanding a thorough study and adjustment. In short, with Mexico it was not a case of prohibition but of temperance and education. Besides, prohibition had failed.

In the final adjustment of the problem a more scientific course was pursued. The leaders who undertook to solve this problem felt that while the manufacture and sale of pulque, mescal, tequilla and whiskey would have to be prohibited, a harmless substitute would have to be found for them. The people would have to be educated to the use of the milder beverages, but it was also realized by them that while beverages containing a great deal of alcohol are dangerous, a certain amount of it is necessary and even

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healthful. In their studies of the problem they benefited a great deal by the experiences of the Scandinavian countries and Germany.

At present Mexico, while still undergoing an experimental era, seems to have a stronger grip of the drink question than it ever had before in its history. The unsanitary pulque shops have been abolished. As a substitute for their native poisonous drinks the modern beverages of beer and light wines have been introduced. And as a result a new era has dawned upon Mexico which is indicative of the success of the new state of affairs.

The influence of the new adjustment is evident in such States as Vera Cruz, Sonora, Chihuahua, Yucatan and others where they have been in existence for a longer period. It was a hard task to tear the people away from an evil that had become a tradition. They were used to the dirty pulqueria. That was the only place open for them. But the new order of things gave them a substitute even for that. Modern, attractive and sanitary drinking places, open air cafés, have been introduced in many places since the new laws were promulgated. Instead of ill smelling pulque they may indulge in a glass of light wine or a glass of beer. This has been one of the great accomplishments of the revolution in Mexico.

Unfortunately, the use of pulque and mescal has not been totally eradicated as yet. In many States, especially in the south, the people are still using it to an extent, and the laws are being evaded. But the campaign of education as well as legislation in Mexico has been started and it is but a question of time when the people there will learn to appreciate such harmless beverages as beer and light wines. The great majority have learned their great value already.

It was thus, after months of experimentation, that the authorities in Mexico realized that it was not a question of prohibition but of temperance. To-day they are slowly educating the people to the harm of pulque and whiskey, not prohibiting alone, but giving them valuable substitutes. For after all it is a question of education and Mexico will try to benefit by the errors made by other countries as well as her own.

BRITAINS' COMPENSATION METHODS

A Committee appointed by the British Government to advise on the arrangements necessary to take over the several branches of the liquor trade, rendered a report in the spring, which contains much interesting matter and throws a great deal of light upon the system of compensation in vogue in that country. The report in part, is as follows:

The Committee were appointed to advise the Government on the financial arrangements that would have to be made if it should be decided by the State to purchase the properties of the breweries in England and Wales, to control the branches of the retail liquor trade not so purchased, and to prohibit temporarily the retail trade in spirits, while permitting the continuance of the sale of beer below a certain alcoholic strength. They understand that the purchase would be effected by the issue of Government stock in exchange for the securities or properties to be bought. The Committee understand also that they are not asked to enter into the broad questions of policy, either general or financial, involved by these proposals, and that they are to view the purchase as a purely commercial transaction, and without prejudice to the issue how far a license to sell exciseable liquor can or cannot rightly be regarded as property.

Taking into account the present position and future prospects of the trade, together with the compulsory character of the proposed purchase, the Committee are of opinion that the property which is to be acquired should be bought by the exchange of 100*l.* of Government 4 per cent stock for every ascertained 100*l.* worth of liquor-trade securities or properties.

TERMS OF TRANSFER

It will be necessary to appoint Commissioners to determine values and to carry out the purchase, and an Authority to conduct the trade on behalf of the State.

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Brewery companies issue debenture, preference, and ordinary stock or shares, which are quoted on the Stock Exchange in some cases and in some are not. Of those which are so quoted there is an active market in some, and a restricted market in others.

We recommend that securities of each class should be purchased from the holders of them and not that undertakings should be bought as a whole. If the latter course were adopted, the consequence would be that in some cases holders of debentures, the market value of which was below par, could claim to be paid off in full, to the prejudice of the holders of preference and ordinary shares; in other cases the holders of preference shares would be unfairly advantaged in the same way at the expense of the holders of ordinary shares.

In assessing values, the Commissioners should first deal with those companies whose securities of all classes are dealt in on the London or provincial Stock Exchanges. The Stock Exchange prices in those cases would, as a rule, furnish a measure of value. The average of the middle prices quoted during the three years ending 30th June, 1914, should be the value fixed. It should, however, be subject to variation by the Commissioners, on their own motion or on representation from any company, on the ground that special and definite circumstances had during that period unduly affected the prices of its securities.

The Commissioners should next calculate the total value of all the securities in each of these companies as so ascertained, and should calculate the number of years' purchase of the annual net profits which it represents. The multipliers arrived at in this manner in the case of those companies would serve as a guide in assessing the value of the remainder of the undertakings.

With respect to each of the companies all or any of whose securities are not dealt in on the Stock Exchange, it will be necessary to ascertain the total value of the undertaking and to divide that sum among the several classes of securities. For this purpose the Commissioners should determine what were the average annual net profits of the undertaking during the three years specified above, after providing adequate depreciation of the assets employed in the business, and after making such allowances, if any, as may be necessary of account of assets which are not reasonably

reflected in the earnings of the company. The annual net profits so determined should be multiplied by such figure as the Commissioners think just in the particular case, regard being had to the Stock Exchange values of such of the company's securities, if any, as are dealt in, and to the multipliers ascertained by the process set out in the previous paragraph, which may be appropriate to the case. The total consideration so arrived at should be distributed by the Commissioners between the several classes of securities of the company in such proportions as they deem equitable, and in that distribution they should again have regard to the Stock Exchange values of any among those securities in which there are dealings.

In the case of privately-owned breweries, the value should be assessed on the principles expressed in the previous paragraph, so far as they are applicable.

The Commissioners should have power to call for accounts in such form, and for such other information, as they may consider desirable.

Liabilities on mortgages and loans entered into by the brewery companies would be taken over along with their other liabilities by the Authority which will conduct the trade. The Authority would also collect the assets of the purchased undertakings, and hold or realise them at its discretion; except that if it should prefer to leave the collection of certain assets to the brewery proprietors, it should deduct from the amount of stock to be allotted to them the value of the said assets, as agreed between them and the Commissioners. Adjustment may be necessary in the event of variation in an undertaking's assets, or in the character of a company's securities, during the period between the time for which the profits were calculated and the date of purchase.

Individual cases of properties which should be purchased, but which are not covered by the foregoing provisions, would require special consideration.

We turn now to the nature of the Government security which is to be given in exchange.

We are of opinion that this should be a 4 per cent stock to be taken at par. In view of the fact that the brewery shares are to be

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bought at pre-war prices, while the Government securities to be given in exchange are to be issued at values depressed by the war, we are of opinion that the Government should reserve the right to redeem the stock at par, on due notice given, at any time after the lapse of seven years.

In view of all these considerations, the Committee recommend that if at the present time the State should take over the companies, it should do so without changing the securities, and should pay for the time being the holders of each class of security the same dividend as they received in the corresponding period of the previous year. (The proprietors of privately owned undertakings, by which no specified rates of dividend had been paid, should be entitled to receive such sum as they can show to the Commissioners that they have been accustomed to draw as profits.) As soon as it is practicable, in the opinion of the Government, to issue a new 4 per cent stock and to allow its unrestricted sale, but not before, the new issue should be made. The brewery securities should then be exchanged for Government stock. If the value of all classes of securities and property of all the companies and firms had not by that time been determined by the Commissioners, the exchange would necessarily be limited to those classes which had been valued, leaving the others to be dealt with as speedily as might be. We are of opinion, however, that if the war continues for a prolonged period, and if the possibility of issuing new stock, freely saleable, is correspondingly postponed, the State ought not to be called upon to pay the difference between interest at 4 per cent and interest at a higher rate for an indefinite time. We consider that the exceptional payment should not extend over more than one year. By the end of that time also it may be expected that the valuation of most of the securities will have been completed. With respect to outstanding cases, special adjustments would have to be made.

Pending the issue of the new Government stock, the brewery securities, with their rights of exchange, would be in effect Government scrip. We consider, therefore, that suitable minimum prices should be fixed for their sale during the war.

We do not recommend that the transactions should include the

purchase of freeholders' and reversioners' interests in licensed property where such interests are in separate hands from the licensees' interest. In cases where it is a condition of the lease that the lessee should use his best endeavours to secure the continuance of the license, it is necessary that the State, when it takes over the lease, should be absolved from that obligation. The freeholder or reversioner is entitled to be indemnified if such a variation of the contract causes him loss. We therefore recommend that he should be entitled to compensation if and when the property ceases to be used for the sale of intoxicants. In assessing such compensation the fact has to be borne in mind that by that particular time the value of any particular license may have been greatly enhanced by the cessation of the sale of intoxicants in neighbouring, and, at present, competing, premises. We do not consider that the freeholder or reversioner is entitled to compensation based on a value so enhanced. Moreover, it will be impossible to determine license values on existing principles when the whole trade is concentrated in the hands of a public Authority. The Committee therefore recommend that freeholders' and reversioners' interests in licensed property, which are not now purchased by the State, should be valued and registered now; the value to be adopted should be based upon the difference between the properly assessed value under Schedule (A), at the present time, of the premises as licensed and the similar value of the premises if unlicensed; and that a right should be given to secure a revision of present Schedule (A) assessments.

The case must also be considered of the position of the owner of property let on lease for the purposes of a public-house, upon the termination of the lease. In existing circumstances he can secure the renewal of the lease by the license, or by some competitor, on terms which have regard to the fact that the premises are licensed. When a public Authority becomes almost the sole retailer of alcoholic liquors he will no longer be able to negotiate on the same terms, and the value of his property will be depreciated. The Committee recommend that where the lease is not renewed on agreed terms the freeholder should have the right to

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claim compensation on a similar basis to that allowed in cases where the license is discontinued.

The Committee recommend that all fully licensed public-houses, and beer-houses with on or off licenses, not belonging to brewery companies, and cider licenses should be bought by the State, and the price payable be assessed by the Commissioners on the basis of the profits actually earned in the house. Where the owner of the house is himself engaged in its conduct, a deduction should be made in respect of the value of his services. He will either be provided with paid employment in connection with the trade, or be separately compensated for loss of livelihood on the conditions recommended below.

With respect to grocers' licences, we recommend that the State should purchase the licensees' interest in the sale of intoxicants. The price should be based on profits from such sales, regard being had to the remuneration, if any, which the licensee continues to receive from the Authority, and also to the nature of the licence. The grocers would become the agents of the Authority, on such terms and conditions as were found desirable, unless other arrangements were made.

We come next to the case of hotels and restaurants, together with railway refreshment-room, theatre, music-hall, and similar licences. It is clear that the businesses in connection with which many of these licences are held could not be taken over, though in some cases (*e.g.*, small hotels) the licensed premises will probably have to be acquired. The question whether in any individual case the business is to be acquired, or if not, whether the licence is to be continued in private hands or is to be suppressed, is one of policy and administration. If any are hereafter suppressed, and if compensation came to be assessed, compensation should be measured by the present value of the licence.

As regards clubs, any restrictions which may now or hereafter be imposed upon the supply of alcoholic liquor by them would not, in our opinion, give rise to any valid claim for financial compensation.

Pending the further general legislation which will be necessary to regulate the supply of alcoholic liquors, we recommend that

Parliament should now prohibit the starting of new breweries, the granting of new retail licences, and the opening of new registered clubs.

It should be provided that beer imported into Great Britain from Ireland, or from abroad, should be of not greater alcoholic strength than the beer brewed by the Authority, and be sold only through the Authority. The position of the business in England and Wales of Irish breweries has not been considered by the Committee, on account of its close dependence upon the course to be taken with respect to the Irish liquor trade generally, which is outside the scope of their inquiry.

Compensation to officials and employees who may be deprived of employment through the concentration of the industry into one hand should be given with due consideration for their length of service, age, and chance of obtaining other work. The position of the holder of an annual tenancy who has money invested in the business should be dealt with on similar lines. Any liabilities of the brewery proprietors in respect of pensions should be taken over. Suitable compensation should also be paid for loss of directors' fees. We recommend that all details of the payments to be made in such cases should be referred to a committee specially created for that purpose.

Allowances in lieu of rates will of course be payable to local authorities.

We turn next to the question of the temporary prohibition of spirits.

The position of the distilleries generally is primarily a question affecting Scotland, and as the Scottish Committee on Liquor Trade Finance is reporting, we understand, on the subject of the Scottish distilleries, we have not entered upon any separate examination of the question of distilleries in England. The position of the wholesale dealers we regard as analogous to that of the distillers.

With respect to the retail trade in spirits in public houses and grocers' shops, the question of compensation for prohibition does not arise, since the retailers' interest will have been purchased as a part of the wider proposal.

There remains the questions of hotels, restaurants, theatres, &c.

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We are of opinion ~~that~~ if the sale of wines is not prohibited, the loss of sale of spirits would not give rise to a claim for compensation.

With respect to stocks of duty-paid spirits in the hands of retailers, we recommend that the holders should be allowed at their option either to return them to bond and to obtain a refund of the duty, or to sell them to the authority at the price paid for them.

Consideration must be given to the question of the tie for spirits to particular distillers, which will be found to be among the obligations attaching to many of the licensed houses, which will be bought as part of the brewery properties. We consider it essential that such ties should be ended. Compensation, however, should only be paid in respect of them if, after the prohibition period, the authority purchased spirits from elsewhere during the period originally covered by the tie. Such compensation should be paid on the basis of profit lost in consequence.

The information at present available is inadequate to enable any accurate forecast to be made of the capital sum that would be involved by the proposed transfer to the State of the properties of the breweries and the interests of the licensees of free houses as specified in this report. The estimates which have been furnished to us indicate a total approximating to 250,000,000*l.* for England and Wales. These figures do not include allowances in respect of certain off-licenses, for compensation to the holders of grocers' licenses, compensation to officials and employees, and any other expenditure contemplated in this report.

The Committee recommend that in framing the income and expenditure account of the undertaking the Authority should be required to allocate to a Sinking Fund a sum of not less than 1½ per cent on the amount of stock issued. This recommendation should take effect after the spirit traffic is resumed, and after the old rates of interest cease to be paid to the shareholders. In view of the expectation that a lessened consumption of alcoholic liquor will be the result of social progress and of further State regulation, it would, in our opinion, be improvident not to make adequate provision for the extinction of an amount of State debt equivalent

to that now to be incurred. At the same time we do not consider that the sum set aside as sinking fund from the revenue of this undertaking should necessarily be used to pay off the holders of the particular security issued for the purposes of this undertaking; first, because it is unsound finance to require that any sum which may be available for the repayment of debt should be used by the State to repay a particular part of its debt, when it might be more advantageous to extinguish some other obligation carrying a higher rate of interest, or more onerous for some other reason; secondly, because the attachment of a special sinking fund to one 4 per cent Government security would tend to depress the value of other issues not so redeemable.

The accounts of the undertaking would be misleading if they did not include an allowance for the taxation now payable through and by the trade.

It is not possible to forecast in detail and with precision all the financial consequences to the State of the proposed transfer. But it is possible to indicate the principal elements, beneficial or detrimental, which necessarily enter into the calculation.

On the one hand, State acquisition and management should be found to be economically advantageous as compared with the present system in that the former will involve—

- (a) the elimination of redundant breweries, with a consequent large saving in management and standing charges;
- (b) the concentration of distribution and sale, with corresponding savings;
- (c) the brewing of a lighter (and therefore more profitable) beer, the price of which will not be affected by competition; and
- (d) the saving of all that class of outlay which arises under strenuous commercial rivalry.

On the other hand, the substitution of public for private ownership may be expected to have a prejudicial effect on profits in the following respects:—

- (a) the brewer and the publican will be replaced by representatives of a public authority, who are under no incentive

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to push sales; hence less drinking may be anticipated and the turnover will be reduced.

- (b) the community will no longer be deterred by the difficulty of dealing with private interests from imposing such further restrictions upon the trade as seem socially desirable, and in so far as the social policy of the State aims at discouraging drinking, this policy will be in direct conflict with financial profit.
- (c) the contribution of 1½ per cent to sinking fund will be an additional charge against profits.

Under the present law, old on-licenses contribute to a compensation fund out of which those interested in a license which is suppressed as redundant are compensated. Under the proposed scheme the compensation fund, so far as undistributed, will pass to the State, and compensation levies will cease, this last item removing from the profit and loss account an annual sum of nearly 900,000*l.* now chargeable against gross earnings.

The financial prospect of the trade under State monopoly depend on the effect, *pro* and *con*, of the new conditions above indicated; they depend still more on efficient business management and economy in the conduct of the undertaking.

The Committee realise that there are indirect economic advantages from a proposal such as this which it is difficult to dissociate from its strictly financial aspect, but into those matters they do not regard it as their province to enter.

HERBERT SAMUEL (*Chairman*).

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THOS. P. WHITTAKER.

HARTLEY WITHERS,
Secretary.

THE ROAD TO CONFISCATION

By Lee J. Vance

(In *Yale Law Journal*, February, 1916)

In his learned and suggestive address on "The Growing Law" before the graduating class of the Yale Law School, June, 1915, Justice Francis J. Swayze made this significant statement:

"The police power has proved a most potent instrument for sustaining the powers of government and limiting property rights. It is a long way from the decision of the New York Court of Appeals in 1856 that a law prohibiting the sale of intoxicating liquors owned by any person within the state when the act took effect, was unconstitutional, to the decision of the United States Supreme Court in 1887 that the prohibitory legislation of Kansas did not deprive the citizens of the state of their constitutional rights. We have traveled farther in the last thirty years."¹

When I read this statement there came at once to my mind the charge of Mr. Justice Brewer, of the United States Supreme Court, to the graduating class of the Yale Law School, June, 1891. Referring to the prohibitory legislation of Kansas, he said:

"There is not only justice, but wisdom in this rule that, when a lawful use is by statute made unlawful and forbidden, and its value destroyed, the public shall make compensation to the individual. . . .

"That while the government must be the judge of its own needs, and in the exercise of that judgment may take from every individual his service and his property, or the property itself, and in the interests of public health, morals and welfare, may regulate or destroy the individual use of his property, yet there

¹25 *Yale Law Journal* (Nov., 1915), p. 7.

remains to the individual the sacred and indestructible right of compensation."²

The righteous demand of Mr. Justice Brewer for compensation to the individual, whose property rights are damaged or destroyed by prohibitory legislation, is as valid to-day as it was in 1891. His vigorous objections to legalized robbery can be overruled only temporarily, for in the end common honesty and simple justice must be observed in spite of *stare decisis* or precedent.

Of course the law grows; it is growing and must grow in order to meet changing habits of thought, customs, and new conditions of our present civilization. But there may be an unhealthy as well as a healthy growth of law. It was the unhealthy growth of law in England that started Bentham in his great work of legal reform. And yet, as Sir Henry Maine points out, radical reformer as he was, Bentham urged extreme caution against hasty acquisition of private property by the state for public advantage, and made vehement protests against the removal of abuses without full compensation to those interested in them.³ It is the unhealthy growth of prohibitory and other law in the United States that is largely responsible for delay of justice, disrespect for law and lawlessness; that has, from time to time, called forth strong protest from members of the bar and has led bar associations to propose and urge radical reforms.

This question of just compensation is one of vital and growing importance to the nation. It calls for fair and straightforward discussion. The issues raised should not be considered from a narrow, sentimental, partisan standpoint, but on broad lines, as the personal liberty and property rights of the citizen are involved. The question of prohibitory legislation thus goes to the very foundation of society and government.

As tersely stated by Judge Baldwin, organized society is created to secure antecedent rights of individuals or groups of indi-

²Address on "Protection to Private Property from Public Attack," published by Law Department, Yale University, p. 17.

³Maine, *Pop. Government*, p. 85.

viduals.⁴ These fundamental rights of an American citizen—notably the rights of life, liberty and property—are guaranteed and protected in almost every constitution against class, oppressive, and confiscatory legislation. Prohibitory laws directly and indirectly attack the personal and property rights of the citizen. Such attacks become dangerous when the citizen can not, or does not, defend and fight for his rights, and when the courts ignore, excuse, or explain away constitutional guaranties and limitations.

That is just what our courts have done in order to sustain prohibitory legislation. Nowhere in the reports of the Supreme Court of the United States, and of our highest state courts, will you find more quibbling, more refinement of reasoning and sophistry, more fine-drawn technical and legal distinctions, more cant and clap-trap about the abuse of drink or intemperance, about public morals and public good, than in the line of decisions beginning in 1847 with the License Cases.⁵

A few months ago Senator Elihu Root in a debate over the judiciary article in the New York State Constitutional Convention said:

“Wherever a special class of men have been entrusted with the formulation and administration of law, they tend to make it a mystery; they tend to become more and more subtle and refined in their discriminations, until ultimately they have got out of the field where they can be followed up by plain, honest people’s minds, and some power must be exerted to bring them back.”⁶

This statement by an acknowledged leader of the American bar condemns those judges who, in the formulation of anti-liquor law, have been subtle and refined in their discriminations in order to disguise the wrong and the injustice done to the individual whose personal rights have been infringed, or whose property rights have

⁴ Two Centuries of Am. Law, by Members of Faculty, Yale Law School, p. 45.

⁵ 5 How. 504.

⁶ Reprint of speeches by Elihu Root under title “Responsible Government,” p. 28.

been damaged or destroyed. In their learned and elaborate disquisitions on "due process of law," on "police power," on "public welfare," on "inherent rights," and in the application of two old Latin maxims—*Salus populi, suprema lex*, and *Sic utere tuo ut alienum non laedas*—the courts in our leading anti-liquor cases have gotten out of the field where they can be followed by plain, honest people's minds.⁷ Robbery is robbery, call it what you will—police power or prohibition. I should like to hear one of our learned justices explain to the average man in the street that it is right and just for the state, or for the people by mere vote, to damage or destroy his property without compensation on the ground of alleged public good. I think I know what the answer of the average citizen would be to this doctrine of confiscation. This immoral doctrine is now buckramed by legal technicality, sophistry, and precedent. The courts in leading anti-liquor decisions have wandered far afield; they have lost their sense of ethical values. As suggested by Senator Root, some power must be exerted to bring them back where judicial legislation shall be under obligation to and guided by the basic principles of honesty and justice.

FROM DUE PROCESS OF LAW

In the growth of liquor law we may adopt the distinction made by Grotius in international law, between what is *summum jus* and what is *temperamentum*. The first part includes those broad legal doctrines which have been tried and tested and proved absolutely valid; the other part is made up of casual rules which are changeable with changing creeds, customs, and conditions of different times. Indeed, our anti-liquor law is mostly made up of rules which have come into being only within the past thirty or forty years,⁸ and they

⁷ How the safety of the people is promoted by violating their personal liberty and destroying their property is hard to understand. Considering that it is not the producers of and dealers in intoxicating liquors, but the buyers and consumers who may use them to their own detriment, the application of the maxim, *sic utere tuo ut alienum non laedas*, is rather far-fetched as to the former class.

⁸ See my paper "Growth of Anti-Liquor Legislation," in 21 Case & Comment, 738 (Feb., 1915).

are largely the result of fanaticism, selfish agitation, and mercenary propaganda.⁹

The present trouble dates as far back as the decision of the United States Supreme Court in the License Cases. In these cases—in which the justices seriously disagreed and rendered opinions full of contradictory reasoning and *dicta*—the police power of the state was given a new meaning and broader scope, so as to sustain not only state prohibitory laws, but slavery and states' rights. Thus a few years later Mr. Justice McLean could say: "The power over slavery belongs to the states respectively. . . . The right to exercise this power is higher and deeper than the Constitution."¹⁰

The *dicta* in the License Cases were promptly seized and used by the anti-drink agitators with surprising results—just as soap-box orators and socialistic reformers now employ judicial utterances on "public good" and "social justice" with great force and effect. In 1851, or only four years after these cases were decided, the Maine legislature passed the first state-wide prohibitory law.

This act was the signal for an outbreak of prohibitory legislation all over the country. A craze for temperance, says the historian McMaster, swept the country from Maine to Minnesota.¹¹ From 1851 to 1856 prohibitory acts were passed in seventeen states.¹² Of these seventeen states, after sixty years of continued agitation, only two—Maine and Iowa—are now (1916) under prohibitory law. During this same period drastic anti-liquor or near-prohibitory legislation was passed in seven states.¹³ Of these

⁹ *North Am. Review*, Dec., 1915, art., "Prohibition and Politics," by L. Ames Brown, who says that a certain anti-saloon league "maintains at Washington one of the most powerful lobbies ever seen at the National Capital."

¹⁰ *Groves v. Slaughter*, 15 Peters, 448. In the License Cases the police power was held paramount over the commercial power of the United States; but this rule was soon modified, then changed, and finally overruled forty-three years later in *Leisy v. Harden*, 135 U. S. 100.

¹¹ McMaster, *Hist. of U. S.*, vol. 8, p. 127.

¹² In 1851 in Maine and Ohio; in 1852 in Massachusetts, Rhode Island, Vermont, and Minnesota; in 1853 in Indiana, Michigan, and Wisconsin; in 1855 in New Hampshire, New York, Delaware, Illinois, Iowa, and Nebraska.

¹³ In 1851 in Missouri; in 1853 in Georgia; in 1854 in Maryland, Arkansas, Mississippi, and Texas; in 1855 in California.

seven states, three are now under prohibitory laws, which, however, were enacted during the past eight years. In proportion to the number of states and population, the prohibition "craze" of 1851 to 1856 was far more serious and wide-spread than the recent so-called "crusades," although the latter are probably more cunning and destructive.

This great flood of prohibitory legislation brought the usual disorder, bitter controversy, and a lot of litigation. The three principal issues raised in the early liquor cases that came to the state courts of last resort were: (a) the validity of local option laws, (b) search and seizure statutes, and (c) due process of law.

(a) The course of judicial decision on local option laws is a good example of what Justice Swayze calls "the growing law." For a time local option laws in a number of states were considered unconstitutional and bad; now in the same states they are constitutional and good. In Pennsylvania, Delaware, Indiana, Iowa, and New York, the courts at first held local option laws unconstitutional, because their operation was made to depend upon the contingency of a popular vote, or because they conflicted with the long-established doctrine, or maxim, that legislative power and authority could not be delegated—*delegata potestas non potest delegari*.¹⁴ After a while the courts deemed it desirable or good policy to change their views on local option. And so they argued that a local option law is complete of itself, as it only determines whether a certain thing shall be done under the law.

No doubt local option laws are more or less confiscatory in character. Under such laws the people of a locality this year may vote out of existence—without any compensation to the owners whose business and property rights are ruined, and without any consideration for the employees who lose their places and former means of livelihood—a lawful business, which they, the electors, temporarily decide they do not like or do not want. Another year the same people may vote the same business back into existence. The

¹⁴ *Parker v. Commonwealth*, 6 Barr. (Pa.) 507; *Rice v. Foster*, 4 Harr. (Del.) 479; *Maizer v. State*, 4 Ind. 342; *Santo v. State*, 2 Iowa 165; *Barto v. Himrod*, 4 Sel. (N. Y.) 483. In Michigan the court divided on the submission clauses of the prohibitory act of 1853 in *People v. Collins*, 3 Mich. 343.

injustice of such a plan is apparent. Even more unjust is the "county option" scheme, whereby the people of towns and cities have prohibitory laws imposed upon them, against their wishes, by the votes of people living outside of those towns and cities. Although first applied to the liquor trade, the principle of local option, which is a form of a referendum, may be and undoubtedly will be used with unexpected results when extended to other industries and property rights. In fact, recent referendum propositions point that way.

(b) Search and seizure provisions in the early prohibitory laws were admitted to be a serious encroachment on "the right of the people to be secure in their houses, papers and effects against unreasonable searches." This right, which is guaranteed in the Federal Constitution, and in most of our state constitutions, was rather neatly explained away in the early liquor cases by the courts of Maine, Connecticut, Rhode Island, Vermont, and other states.¹⁵ Just as our prohibitory laws have gradually encroached on the oldest and highest rights of every American citizen, so the penalties have become more and more severe. In Vermont, for example, the penalties for violating the prohibitory laws became greater than that inflicted for any crime, other than murder, in the state. In some cases men were sentenced for longer terms than they could be expected to live.¹⁶

(c) As to due process of law, two leading cases arising from early prohibitory legislation may be briefly noticed. One is the case of *Green v. Briggs*, decided in the United States District Court, in 1852; the other is the case of *Wynehamer v. People*, decided by the New York Court of Appeals, in 1856.¹⁷

In the *Greene* case Justice B. R. Curtis, who was appointed a few years afterward a justice of the United States Supreme Court, and Justice Pitman held that the Rhode Island prohibitory law is

¹⁵ *Gray v. Kimball*, 42 Maine 299; *State v. Breman's Liquors*, 25 Conn. 277; *Oviatt v. Pond*, 29 Conn. 479; *State v. Snow*, 3 R. I. 64; *In re Horgan*, 16 R. I. 542; *Lincoln v. Smith*, 27 Vt. 328; *Gill v. Parker*, 31 Vt. 610.

¹⁶ In *State v. O'Neil*, 58 Vt. 140, cumulative punishments in the same prosecution amounted to imprisonment for nearly one hundred years.

¹⁷ *Greene v. Briggs*, 10 Fed. Cas. 1135; No. 5764; *Wynehamer v. People*, 13 N. Y. 378.

unconstitutional as violating due process of law. Justice Pitman's opinion, which was short and to the point, opens with this statement:

"The law in question was, no doubt, intended by many good men to promote the welfare of the community; but if this cannot be accomplished, except by the sacrifice of those principles which are so essential to secure our rights and liberties, we can not hope for security, because we are under a popular government."

Justice Pitman said in conclusion: "The Constitution of Rhode Island, and most other state constitutions provide, that private property can not be taken for public use, without just compensation. To evade this provision, it is made criminal to have this kind of property (liquor) not merely in 'drinking house and tippling shops,' but 'in any store, shop, warehouse, or other building,' etc., with the intent to sell the same. Such an evasion is as illegal as a denial of this right; and if such a law is justified it can only be by adding another provision, by which the owner shall be compensated for the destruction of his property."

In the *Wynehamer* case the New York Court of Appeals held that the prohibitory act of 1855 destroyed property in intoxicating liquors owned and possessed by citizens within the state and, therefore, violated due process of law. Judge Comstock's able presentation of the juristic premises on which due process of law is founded, and his clear-cut, logical argument in defense of the private rights of the citizens as against confiscatory or prohibitory legislation, have never been (to my mind) successfully refuted. In words that cannot be too often quoted and heeded, Judge Comstock declared:

"No person can be deprived of his property without due process of law. When a law annihilates the value of property, and strips it of its attributes, by which alone it is distinguished as property, the owner is deprived of it according to the plainest interpretation, and certainly within the spirit of a constitutional provision intended expressly to shield private rights from the exercise of arbitrary power." (p. 398.)

As the case turned on the due process of law clause, the question of just compensation was not expressly decided. The Wynehamer decision has done as much as any one case to make the courts of New York State hold firm for the spirit as well as the letter of the Constitution. It has thus helped to make that state a safe place in which to own and hold property and live.

After the close of the Civil War prohibition activities were promptly renewed. In a few years prohibition campaigns were under way in most of the states. Then came a demand for national prohibition. In the 44th Congress, in 1876, Representative Henry A. Blair, afterwards United States Senator, first introduced in the House a joint resolution for a federal Prohibition Amendment to the Constitution. Briefly stated, it provided as follows:

"SEC. 1. From and after the year of our Lord 1900 the manufacture and sale of distilled alcoholic intoxicating liquors, or alcoholic liquors any part of which is obtained by distillation . . . except for medicinal, mechanical, chemical and scientific purposes, and for use in the arts, anywhere in the United States and Territories thereof, shall cease."

Attention is called to two important features of this proposed amendment: first, national prohibition is limited to "distilled liquors"; secondly, the principle of fair play and justice is recognized by giving the manufacturers of and dealers in distilled liquors twenty-four years, or until the year 1900, to dispose of their property and goods and to get out of the business. From this time on different prohibition measures have been proposed and introduced in almost every Congress.

One of the large results of the Civil War was the Fourteenth Amendment, by which positive rights and privileges are secured by way of prohibition against state laws and state proceedings infringing those rights and privileges. With the broad limitations imposed upon the states by this amendment, and with practically the same limitations imposed upon the Federal Government by the Fifth Amendment, it was expressly intended by the representatives of "the people," who framed and adopted these amendments, that

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the liberty of the citizens should be secured against arbitrary and oppressive prohibitory legislation, and that the property rights of those engaged in the wine, beer, distilling and all other industries could not be taken without due process of law, and without just compensation.

THE COMPENSATION ISSUE

The course of judicial legislation on the compensation question may be briefly outlined as follows: In 1873 in the case of *Bartemeyer v. Iowa*¹⁸ the Supreme Court said:

"If it were true, and it was fairly presented to us, that the defendant was the owner of the glass of intoxicating liquor which he sold to Hickey at the time that the state of Iowa first imposed an absolute prohibition upon the sale of such liquors, then we concede that two very grave questions would arise, namely; first, whether this would be a statute depriving him of his property without due process of law; and, secondly, whether if it were so, it would be so far a violation of the 14th Amendment in that regard as would call for judicial action by this Court?"

Mr. Justice Bradley and Mr. Justice Field in their concurring opinions stood for right of property; the latter holding that "any act which declares that a man shall neither sell or dispose of it, nor use and enjoy it, confiscates it, depriving him of his property without due process of law."

In 1877, or three years later, in the case of *Boston Beer Co. v. Massachusetts*,¹⁹ the Supreme Court again dodged the issue in these words:

"We do not mean to say that property actually in existence, and in which the right of the owner has become vested, may be taken for public good without compensation, but we infer that liquor in this case, as in the case of Bartemeyer v. Iowa, was not in existence when the liquor law of Massachusetts was passed." (Italics mine.)

¹⁸ 18 Wall. 129.

¹⁹ 97 U. S. 25.

In 1886 in the case of *Kansas v. Walruff*²⁰ in the 8th District of the United States Circuit Court, Justice Brewer held that, while the state could prohibit the manufacture and sale of intoxicating liquors, yet such prohibition, if unaccompanied by provision for compensating the owners of existing liquor property, would not be due process of law, and therefore unconstitutional. The defendant, Walruff, had erected a brewery which was worth \$50,000, but worth not more than \$5,000 for any other business; hence damages were claimed in the sum of \$45,000.

In his opinion Justice Brewer laid down these four propositions:

(1) "Debarring a man, by express prohibition, from the use of his property for the sake of the public, is taking of private property for public uses"; (2) "That natural equity, as well as Constitutional guaranty, forbids such a taking of private property for the public good without compensation"; (3) "That no matter what legislative enactments may be had, what forms of procedure, judicial or otherwise, may be prescribed, there is not 'due process of law' if the plain purpose and inevitable result is the spoliation of private property for the benefit of the public without compensation"; and (4) "Legislation which operates upon the defendants as does this (the Kansas prohibitory act) is in conflict with the Fourteenth Amendment, and, as to them, void."

Three years later, or in 1889, Justice Brewer was appointed a member of the United States Supreme Court, but by that time that court had decided against the claim for compensation.

In 1886, two cases involving the Iowa liquor law were decided by the United States Supreme Court—*Schmidt v. Cobb*, and *O'Malley v. Farley*.²¹ In these cases counsel for plaintiffs in error, defendants below, referred to the Walruff case, and in their petition for removal alleged, and it was agreed, that the defendants had erected a brewery for the purpose of manufacturing beer and "suited for no other purpose"; that "in addition to the personal rights of the defendants" more than \$10,000 worth of property belong to de-

²⁰ 26 Fed. Rep. 178.

²¹ 119 U. S. 286.

endants "would be rendered entirely worthless" if plaintiff succeeded against them.²² There was no opinion in the cases, and the official report reads as follows:

"Mr. Chief Justice Waite announced that the decree below was—*Affirmed by a divided court.*" (p. 295.)

"*O'Malley v. Farley*, appeal from the Circuit Court of the United States for the Northern District of Iowa. Their cause was submitted with *Schmidt v. Cobb*, by the same counsel. It involved the same principles, and, like that case, was—*Affirmed by a divided court.*" (p. 296.)

I call particular attention to the division of the Supreme Court of the United States in these two Iowa cases. The court, consisting of nine justices, was four and four, Mr. Justice Woods being unable on account of sickness to join in consideration of the cases. Fourteen months later, in two Kansas cases which involved practically the same issues or questions, seven of the eight justices of the Supreme Court set their seal of approval on a new theory of confiscation.

In other words, three justices of the Supreme Court reversed their opinions and radically changed their positions, between October, 1886, and December, 1887, on the question of due process of law and just compensation which are always involved in state-wide prohibitory legislation. It is one of the most curious facts in the history of our judicial anti-liquor legislation. It has never been explained.

In April, 1887, was argued in the United States Supreme Court the case of *Mugler v. Kansas*.²³ In October, 1887, there was further argument in this and another case, *Kansas v. Ziebold*, which involved the same issues. Senator George G. Vest and Hon. Joseph H. Choate were leading counsel for the brewers whose personal

²² In the Walruff Case the county attorney had proceeded to abate and shut up a \$50,000 brewery as a nuisance, thus destroying the business and rendering the property of small value. In the Schmidt case the proceeding was to enjoin the defendants from keeping a saloon in one corner of their brewery.

²³ 123 U. S. 623.

and property rights were affected. Senator Vest on oral argument and in his brief vigorously denounced the Kansas prohibitory act, comparing it with a decree of the French Commune.

In December, 1887, the Court handed down its decision in the two cases. Mr. Justice Field dissented and in concluding said:

"The Supreme Court of Kansas admits that the legislature of the state, in destroying the value of such kind of property, may have gone to the utmost verge of constitutional authority. In my opinion it has passed beyond that verge, and crossed the line which separates regulation from confiscation." (p. 678.)

In *Mugler v. Kansas*, which is followed by *Crowley v. Christensen*,²⁴ the learned justices have gotten "out of the field where they can be followed up by plain, honest people's minds." With all due deference and respect to Mr. Justice Harlan, who delivered the opinion of the court in the *Mugler* case, I am unable to feel the truth and force of his line of reasoning. Briefly stated, he argues that confiscation is not confiscation under certain circumstances, that is, under prohibitory legislation; that, if it is confiscation, it is for the public good; that there should be no compensation to the citizen whose property has been damaged or destroyed by the exercise of the police power to legislate the people of a state into sobriety or temperance.

Mr. Justice Harlan makes the claim, which stands as precedent, that "a prohibition simply upon the use of property for purposes that are declared, by valid legislation, to be injurious to the health, morals or safety of the community, cannot in any just sense be deemed a taking or an appropriation of property for the public benefit." This claim, though it is ingeniously worded and put, takes for granted first, that prohibitory legislation is "valid," and ignores the fact that this same legislation is expressly intended for the health, morals, or safety of the community, and then with a quick jump of logic concludes that such legislation "cannot in any just sense be deemed a taking or an appropriation of property for the public benefit." In the next sentence the justice adds the rather cynical remark that, "such legislation does not disturb the owner in the

²⁴ 137 U. S. 86.

control or use of his property for lawful purposes, nor restrict his right to dispose of it." No; prohibition has not yet gone that far; but who knows what kind of police power the future will bring forth?

The following passage in *Mugler v. Kansas* has often been cited as the strongest argument in support of the rule that, "*the entire scheme of prohibition, as embodied in the constitution and laws of Kansas, might fail* if the right of each citizen to manufacture intoxicating liquors for his own use as a beverage were recognized. Such a right does not inhere in citizenship." (Italics mine.)

As to the Kansas scheme of prohibition, if it is a violation of the constitutional rights and privileges of the citizens of that state, and of the United States, it should fail. Why should the Supreme Court make an elaborate effort to sustain any doubtful scheme of prohibition? What is it to that court whether a state prohibition scheme fails or not?

Again, in the passage just quoted the claim is broadly made that the citizen has no right to manufacture intoxicating liquors for his own use. This claim cannot be substantiated. In fact, it is expressly denied by the courts. In the very recent case of *Adams Express Co. v. Kentucky*²⁵ the United States Supreme Court, per Mr. Justice Day, cites with approval the following plain words of the Kentucky Court of Appeals:

"The history of our state from its beginning shows that there was never even the claim of a right on the part of the legislature to interfere with the citizen using liquor for his own comfort, provided that in so doing he committed no offense against public decency by being intoxicated; and we are of the opinion that it never has been within the competency of the legislature to so restrict the liberty of the citizen, and certainly not since the adoption of the present constitution. . . . Therefore, the question of what a man will drink, eat, or own, provided the rights of others are not invaded, is one which addresses itself alone to the will of the citizen. It is not within the competency of the government to invade the privacy of a citizen's life and regulate his

²⁵ 238 U. S. 190.

conduct in matters in which he alone is concerned, or to prohibit him in any liberty the exercise of which will not directly injure society," ²⁶ *Commonwealth v. Campbell*, 133 Ky. 50.

In *Crowley v. Christensen* (*supra*) the further claim is made that, "there is no inherent right in a citizen to *sell* intoxicating liquors by retail; it is not a privilege of a citizen of the state or of a citizen of the United States." The same claim might be put forth with regard to many other things. It is a question whether there is an "inherent right" in a citizen to sell, for example, dry goods, or soft drinks, or patent medicines, or stocks and bonds at retail.

On the other hand, the right to make, use and sell intoxicating liquors is not derived from the Constitution. This right existed before and without state and federal constitutions, and was always the natural or inherent right of the citizen. This right, to be sure, has been encroached upon by statutory and judicial legislation; it has been restricted, regulated, and even prohibited; but the right itself can not be taken away or lost. It is part of that larger right of the citizen which has been so well defined by Chief Justice White, namely,—“the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation.” ²⁷

The right to make, use and sell ale or beer, i. e., intoxicating liquor, is an antecedent right which was secured by Society in England before the common law. This same right, which was established and created by the common law, is taken away by prohibitory legislation, statutory and judicial. It is impossible to reconcile such legislation with the doctrines of the United States Supreme Court in *Munn v. Illinois*, 97 U. S. 113, and reaffirmed, that a mere common-

²⁶ See *Ex parte Wilson*, 6 Okla. 651; *State v. Gilman*, 33 W. Va. 146. In *Ex parte Crane*, 151 Pac. Rep. 1006, decided Sept. 11, 1915, the Supreme Court of Idaho on an agreed state of facts, which showed that "the petitioner had in his possession a quantity of whisky for his own use, and not for the purpose of selling it or giving it away," affirmed the prison sentence. Evidently the citizens of Idaho have no rights which the Supreme Court of that State is bound to respect.

²⁷ *Allgeyer v. Louisiana*, 165 U. S. 578.

law regulation of trade or business may be changed by statute; but rights of property which have been created by the common law can not be taken away without due process.

In the leading cases the courts in calling on the police power to override constitutional guarantees and limitations, argue not against the right use, but against the abuse of drink. This line of argument leads to a false conclusion, because from the abuse of a thing no sound argument can be drawn against its proper use; hence the legal maxim, *ex abusa non arguitur ad usum*.

The important question is, why should those who are temperate be deprived of their personal and property rights by class legislation in behalf of the intemperate? It is alleged—and no facts or proofs have been submitted to the contrary—that not more than 3 per cent, or 5 per cent at the outside, of those who drink can be classed as intemperate persons or drunkards. Why, then, should 97 per cent, or even 95 per cent, of the people be subjected to harsh, arbitrary and oppressive legislation promoted by reformers for 3 or 5 per cent of the community?

In the leading cases the courts in calling on the police power to justify confiscatory legislation assume or postulate the proposition that drink is one of the great causes of poverty and crime. Mr. Justice Grier's remark in the License Cases has been taken up and repeated in substance in almost all of the other prohibition cases. "It is not necessary," said he, "for the sake of justifying the state legislation now under consideration, to relate the appalling statistics of misery, pauperism and crime, which have their origin in the use or abuse of ardent spirits."

Why is it not necessary to justify state legislation which infringes personal liberty, which undermines property rights and leads to spoliation and confiscation? As to the alleged appalling statistics of pauperism and crime from drink, where are they? They are not in the records of the License or any other cases. They are not in the evidence before the court. Hence the off-hand opinions of the justices of the Supreme Court and of the state courts, which are so widely quoted and accepted, on the relation between drink, poverty and crime are not based upon the facts in the case.

The courts are in no position to pass upon and determine the

deep and complex causes of poverty and crime. The whole question is the subject of bitter and angry dispute in social, economic and political circles. The author of "Progress and Poverty" did not find drink the cause of poverty, but a bad land system. A trained investigator, who has studied this problem for the past quarter of a century, says that efforts to state statistically the relation between poverty and drink, particularly those of early date, are faulty and misleading.²⁸ The socialist authorities maintain that the poverty and misery of modern life are due to the capitalistic class system, and these evils will disappear when the present "system" is abolished.²⁹ Finally, there are those who hold that drink is not the cause of poverty, but poverty is one of the chief causes of drink.

THE POLICE POWER DANGER

It seems to me the police power has been overworked. This power has grown up to its present vague and immense form by a process of judicial legislation. The courts have created, so to say, a kind of extra-legal Frankenstein—a monster Policeman who may defy and mock his creators.

The term "police power" was first used in the decisions of the United States Supreme Court in the case of *Brown v. Maryland* ³⁰ in 1827. It is there regarded by Chief Justice Marshall mostly as a health or quarantine regulation. Twenty years later, in 1847, in the License Cases the police power for the first time is put forth to support experimental prohibitory legislation, and to encourage social reformers with a panacea. For obvious reasons the justices of the Supreme Court have persistently refused to define with precision and accuracy the term "police power," and after sixty-nine years we are still as doubtful as to the exact meaning and scope of the police power of the state as was Mr. Justice Grier in the License Cases.

Meanwhile the courts have gone on building up theories of

²⁸ *Atlantic Monthly*, Jan., 1916, art., "Social Aspects of Drink," by John Koren, a statistical expert employed by the U. S. Government in the investigation of the liquor traffic abroad. Mr. Koren wrote in 1895 the memorable report on the liquor problem for the Committee of Fifty.

²⁹ Hillquit, *Socialism*, p. 120.

³⁰ 12 Wheat. 419.

police power which contain elements of danger, for I believe with that great teacher of law, the late Prof. Theodore W. Dwight, "the police power, though indispensable in a civilized country, is a dangerous one, being capable of great abuse, and no invasion of the liberty or property of a citizen should be allowed, unless public ends require it and would be apparently promoted by it."⁸¹ According to very recent decisions of the United States Supreme Court, the police power may depend on an alleged deep-seated conviction of the people,⁸² or on an opinion extensively held,⁸³ or it may be put forth in aid of a scheme alleged to be supported by a strong and preponderant opinion.⁸⁴ If the validity of the police power depends upon and follows so-called "popular opinion" which is sometimes "mob opinion" and sometimes "newspaper opinion," we are getting pretty near the danger line. If some kind of police power is invoked against the courts, the judges will have only themselves to blame.

There is dynamite in the police power. The ingredients which our courts have used to compose the police power may make an explosive compound. It is only a matter of getting the right formula and using the destructive compound at the psychological time. That was what Rousseau did with the old legal theories of "natural law," and "natural rights," which were invoked by the framers of our Declaration of Independence in 1776, and became the basis of the Declaration of the Rights of Man by the French Convention of 1789. What had been, as Mr. James Bryce points out, "a harmless maxim, almost a commonplace of morality, became in the end of the 18th century a mass of dynamite which shattered an ancient monarchy and shook the European continent. Liberty, Equality, Fraternity, are virtually implied in the Law of Nature in its Greek no less than in its French dress. They are even imbedded in the Roman conception, but imbedded so deep, and overlaid by so great a weight of positive legal rules and monarchical institutions, as to have given no hint of their tremendous possibilities."⁸⁵

⁸¹ Dwight, *Law of Persons & Prop.*, p. 438.

⁸² *Otis v. Parker*, 187 U. S. 606.

⁸³ *Purity Ext. & Tonic Co. v. Lynch*, 226 U. S. 192.

⁸⁴ *Noble State Bank v. Haskell*, 219 U. S. 104.

⁸⁵ Bryce, *Studies in History & Jurisprudence*, vol. 2, p. 599.

Just as the explosive element lay in the old legal theories of natural law and natural right, so I believe a destructive economic and political force is concealed in our modern judicial theories of the police power. The advocates of confiscation may not understand the legal sophistry underlying the exercise of police power for prohibitory legislation, but they do know its plain meaning and significance, as the following will show:

"Let the public ear only get accustomed to the theory now advanced by Prohibitionism, to wit, that all argument regarding the injury to private property that would result from a certain movement is irrelevant, and that the real question is, 'Does the said property work good or evil?'—let that principle be well advertised, and it will strike root, and with its root it will remove nine-tenths of the objections that Socialism will disable the present holders of capital from utilizing their property.

"It matters not how large the investment may be. If they work injury to the commonwealth—away with them."²⁶

The principle of confiscation, which is imbedded in the reports of the United States Supreme Court and of the highest courts of the states, is no secret to those who are out not for moral reform or prohibition, but for economic and political revolution. They state the results of the police power so that the plain people can easily understand them. Here is the proposition as one writer explains it:

"About three years ago, in the state of Oklahoma, that party had 40,000 majority. It was then that these good Democrats voted for Prohibition. By doing so they confiscated every booze joint, saloon and brewery in the state. A. B.— of St. Louis had invested a million of hard-earned money in a new brewery in Oklahoma City, . . . and our good Democrats destroyed all that value, wiped out the whole industry and never offered a wooden nickel as indemnity to the rightful owners. . . . This was confiscation with a vengeance. This was swiping the other fellow's business. And if the time ever should come when we

²⁶ From "The People," Feb., 1909.

Socialists have to go into the confiscation business, we shall be only too glad to turn the job over to the Republicans and Democrats, for we believe they are past masters in the gentle art of confiscation.”³⁷

It seems to me that the theory of the Socialists is more plausible than that of the Prohibitionists. The Socialists argue that the people of the state by their labors have created the enormous property values and fortunes of the capitalistic class, and that by the exercise of the police power of the state these great property values and fortunes, often obtained by fraud or under color of law, will be returned and re-distributed among the people who made them. The Prohibitionists can not claim that they created the properties and millions invested in vineyards, wineries, breweries and distilleries—unless they admit they helped to drink up their share of all the intoxicating liquors produced.

PAY FOR WHAT YOU TAKE

The right and justice of compensation have been recognized and confirmed by legislation in England, in Switzerland, and in Portugal.

In England, when licenses are “extinguished,” as it is called, just compensation is made for the licenses cancelled. According to the licensing statistics, 842 licenses were extinguished in England and Wales in 1913. The average price paid was £962 12s. 8d.; that is, £1,014 3s. 1d. each for 352 full licenses, and £925 12s. 6d. each for 490 beer licenses.

On Jan. 1, 1914, there was a balance of £685,975 5s. 3d. in the Compensation Fund. In the nine years, from 1905-1913, a total sum of £8,873,137 9s. 8d. was received by the Compensation Authorities, and a total of £8,073,127 3s. 8d. was paid out in compensation for 8,961 licenses.³⁸

³⁷ Socialism, What It Is and How to Get It, by O. Ameringer, pp. 10-11.

³⁸ Annual Blue Book, published by the English Home Office, 1913, pp. 4-10. See also 57th Annual Report of the Commissioners of Inland Revenue for year ending March 31, 1914. In that year the awards issued amounted to £144,556 in England, and £2,091 in Wales, a total of £146,647.

In 1914, when the French Government prohibited the manufacture of absinth, provision was made for compensation. On Feb. 19, 1913, in the midst of a great war, the Chamber of Deputies of the French Republic passed a measure appropriating 14,800,000 francs (about \$2,900,000) as indemnity to the absinth distillers and dealers.

In Switzerland, a Federal Decree provided for the payment of indemnities not only to the manufacturers but to the employees in carrying out the Federal Law of June 24, 1910, on the prohibition of absinth. The Decree (translated from the French) provided:

"ARTICLE 1—The following shall be entitled to partial indemnification in such trade as may have been directly affected in a substantial manner by the prohibition of absinth; to be indemnified in obedience to the following provisions:

(a) The owners and tenants (farmers) of lands on which absinth is cultivated for the purpose of distillation.

(b) The owners and lease holders of absinth factories.

(c) The paid hands who are employed by the cultivators, as well as the employed and laborers of the manufacturers." ²⁹

²⁹ Article 2 provides that the owners of lands on which absinth had been cultivated to July 5, 1908, should be entitled to a single indemnity of 550 francs per hectare, and for any loss suffered a single indemnity of 2,600 francs per hectare. Article 3, the owners of buildings and plants which had been used in the manufacture of absinth to July 5, 1908, should receive an indemnity equal to three-fourths of the average value for their property affected by the prohibition. Article 4, the owners in certain cases should receive an indemnity equal to ten times the amount of the net profit realized in an annual average during the preceding five years. Article 5, the Federal Government, in place of an indemnity, could acquire the apparatus used in the manufacture of absinth, at the price based on its market value. Article 6, whoever had manufactured absinth to July 5, 1908, should receive an indemnity four times the amount of the net profit realized in the annual average during the preceding five years. Article 8, the sum of 15,000 francs is set aside to indemnify in part the men and women employed in the absinth industry for loss of wages. Article 9, whoever up to July 5, 1908, had been employed in the manufacture of absinth exclusively for more than three years, either as an employee or a day workman, should receive an indemnity equal to the total amount of wages received during the preceding four years. In the same article provisions are made for indemnities to per-

In 1911, the Government of Portugal, in prohibiting the manufacturing of rum in Portuguese West Africa, provided a plan whereby the planters who made rum were compensated. The indemnity was fixed at 3,000,000 escudos (about \$270,000) to be paid in proportion to the area planted with sugar cane or sweet potato intended for the manufacture of rum; 632 escudo 42 c. (about \$550) being allotted for each hectare (about 2½ acres) of alcohol cane, reckoning as one such hectare 1½ hectorcs planted with cane, or 3 hectorcs planted with sweet potato. The government of Portugal issued 30,000 bonds with three per cent interest of the value of 100 escudos (about \$93) each to run for thirty years, and allowed the planters to pay with these bonds their debts to the government on account of excise duties on rum manufactured previously to the decree. When the bonds were ready, the government paid to the planters 30 per cent of the indemnity to which each was entitled.⁴⁰

Are the American people less scrupulous, less just, less honest than the people of England, or of France, or of Switzerland, or of Portugal? It seems so. "It will be said hereafter," declared Mr. Justice Brewer, "to the glory of the state (Kansas) that she pioneered the way to temperance; to its shame that at the same time she forgot to be honest and just, and was willing to be temperate at the expense of the individual."

Considering the law and the facts,—and the moral question involved—I believe the time has come for a re-examination and a re-statement of judge-made law to support drastic prohibitory legislation. It may be urged that it is rather late now to change the present rule. It is never too late to right a wrong. I recognize and fully appreciate the great value and use of *stare decisis*. But if all the decisions denying just compensation for property rights ruined by prohibitory legislation were reversed to-morrow no man's lib-

sons over 29 years old, or who had been employed for more than 10 years in the industry. Article 11, a board of arbitration to decide disputed claims for compensation, and appeals from the decision could be made in cases involving more than 2,000 francs.

* See Ridley's Wine & Spirit Trade Circular (London, Eng.), Dec. 8, 1915, pp. 771-72, quoting from Annual Report of the British Consul-General.

erty would be infringed; no property would be damaged or destroyed. Nothing has been built upon the rule of confiscation by police power, except dangerous precedents for further agitation and for more radical legislation.

In the final analysis this question of compensation is one of common, everyday honesty. Therefore, I have firm faith when the great issue is again fairly raised and squarely met, the legislators, judges, and citizens of our country will act in the spirit of the Golden Rule and will agree to pay for what they take. Anything less would mean more lawlessness and more confiscation in the future. Let us not deceive ourselves about violation of one kind of personal liberty and property rights by the police power and under color of law. Let us not forget that spoliation and injustice always bring their own revenges and train of evils. Let the United States Supreme Court restore the 14th Amendment to the Constitution, and let the state courts reaffirm the Seventh Commandment in the statute books. Let us take to heart the advice of that great moral preacher, Thomas Carlyle, who bodily declared "—
"At a time when the divine Commandment, *Thou shalt not steal*, wherein truly, if well understood, is comprised the whole Hebrew Decalogue, with Solon's and Lycurgus's Constitutions, Justinian's Pandects, the Code of Napoleon, and all Codes, Catechisms, Divinities, Moralities whatsoever, that man has hitherto devised (and enforced with Altar-fire and Gallows-ropes) for his social guidance: at a time, I say, when this divine Commandment has all-but faded away from the general remembrance; and with little disguise, a new opposite Commandment, *Thou shalt steal*, is everywhere promulgated,—it perhaps behoved, in this universal dotage and delirium, the sound portion of mankind to bestir themselves and rally."

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^a Sartor Resartus, Bk. II, ch. X.

PROHIBITION IN KANSAS

By Albert Jay Nock

(In *North American Review*, August, 1916)

The State of Kansas has experimented with constitutional prohibition for a period of thirty-five years. The amendment was submitted by the Legislature at the session of 1879, adopted at the general election of 1880, and the enabling statute became effective May 1st, 1881. At this time Maine was already under State-wide prohibition, but prohibition was never taken very seriously there except as a political issue, and is at present scarcely more than nominal,—in fact, Governor Curtis, in his inaugural address, recommended that the whole pretense be given up. But in Kansas, prohibition has always been taken seriously and its enforcement has commanded the utmost efforts of the State; so while Kansas is not precisely a pioneer in the policy, she doubtless represents the very best that State-wide prohibition can do.

From the standpoint of constructive reform, it is regrettable that students of the alcohol problem usually take so absolute a view of it, tending to isolate it from other social issues and regard it as detached and unrelated. This tendency, so generally observable in most that has been written about Kansas, vitiates many arguments and nullifies many conclusions drawn from her experience. Propagandists on both sides of the question generalize frèely from particular features of this experience, in a fashion that is utterly discredited by acquaintance with the history and make-up of the State. This is particularly true of attempts to apply the experience of Kansas to other States, though it also holds good of many attempts to interpret the course of prohibition in Kansas itself. The claims, for instance, of prospèrity, public health, sanity, the absence of crime, and such like, are often interpreted in a preposterous relation to the State's policy of prohibition. Most of this sort of thing, of course, comes from public officials with axes to grind; for politicians in Kansas are quite what the majority of

them are elsewhere—quite as hamstrung and time-serving, and quite as prone to compromise. But much of it also comes from studies that purport to be disinterested and even scientific. Only the other day, for instance, I saw a newspaper announcement of an article dealing with Kansas as “a State without saloons and without slums.” The title sufficiently indicates the tenor of the prospectus. It would seem that the most derelict editorial judgment must be aware that under any liquor policy in the world, Kansas could not possibly breed slums. One might as easily think of her as breeding white bears. Slums are an immediate product of industrialism, not of drink. If there were never another drop of liquor in New York, Pittsburgh, Paterson, or any of our industrial centers, the slums would remain as they now are. Kansas has no relatively industrial life worth mentioning, and the wage-earning population of her largest cities is only about equal to the population of the Woolworth Building in New York.

Many Kansans recognize the disservice done the State by these exaggerations, and wish to promote a more intelligent view. One of them said to me that “there are many good things here with which prohibition has nothing to do, and many bad things that it is not responsible for; but, on the whole, it has helped.” This is, I think, a very just estimate. The only question is whether the same result might not have been reached, at less expense of reaction and drawback, by some other method. I must say, too, that I never saw a fairer entertainment of this question than by these men who were supporting the State’s policy with all their might. They discussed the weaknesses and drawbacks of prohibition, as well as its excellences, with conspicuous candor. So far were they from fanaticism and the pestilent temptation to generalize from the experience of their own State, that they gave explicit warning against the expectation that even the results obtained there could be reproduced satisfactorily elsewhere. “We have had a terrific fight for thirty years,” said one of them, “and we have won and are satisfied. But any other State that tries it must make up its mind to the same struggle, *and without our initial advantages.*”

These initial advantages are the most important thing to be kept in mind by the student of State-wide prohibition as a general

policy. They should be especially scrutinized by the legislative bodies of other States, who are under pressure to inaugurate a similar policy. We shall consider them presently; but before doing so, it is proper to show the net result of prohibition in Kansas at the present time—to see what the conditions are with which these advocates of the State's policy express themselves as satisfied.

The one direct result is the suppression of the saloon. On the positive side, this is the whole upshot of prohibition. It cannot be too clearly understood or too constantly borne in mind that *prohibition in Kansas does not mean the prohibition of drinking*. It is not directed against drinking. It is directed against the traditional method of retail distribution. There is no objection, apparently, to the method of handling direct to the consumer. The law does not interfere with it, and one hears no complaint. There is no trouble about getting anything one wants to drink, by the simple expedient of having it shipped in. It seems to be well understood in Kansas that the intention of sentiment is fully met by the suppression of the saloon, and there is no attempt to go beyond it. A leading merchant said to me, with the greatest candor: "I have everything in my cellar, just as my neighbors have, from champagne to ginger ale. I drink beer every night. My children drink it whenever they want it. I hope the Federal Government will never make it impossible for me to get it. But I don't know, really, whether I would shoulder a musket sooner to repel a foreign invasion of America, or to keep the saloon out of Kansas!"

The theory is, largely, that by this means liquor is kept out of the general consciousness, and particularly out of the consciousness of the young. There is a great deal to be said for this; yet it ought to be remembered, too, that there is a negative as well as a positive approach to consciousness. A score of times I heard it said in Kansas, and always with a curious air of finality, "Our boys have never seen a saloon in their lives." One appreciates the full value of this, and yet one cannot help wondering what they will do when they do see one, as at some time they almost inevitably will. But without wishing to whittle down an achievement of prohibition by this or any other speculation, the point to be remarked is that the achievement itself is thus sharply defined;

and, while very conspicuous and valuable, must yet appear, from the absolutist point of view, somewhat attenuated.

Now, to abolish the saloon (which, I repeat, is the whole upshot of prohibition in Kansas)—to attain this very considerable result, the State has made sacrifices, in virtue of the method employed, which go far toward counterbalancing the value of the gain. It is distasteful to speak of evasions of the law; they are the stock-in-trade of the propagandist, and perhaps in their nature may not be handled quite scrupulously by any one, at least in any detail. But speaking as broadly and guardedly as possible, Kansas has repeated the history of every absolutist enterprise since the world began. Promptly with the attempt to enforce prohibition, evasion began to run its squalid course. After the open saloon came a period of indirect licensing. In 1883, two years after prohibition was established, there were forty open saloons in Topeka, doing business under a license to sell certain specified liquors "and other drinks." A town the size of Fort Scott had as many as thirty-two places operating under such licenses. There was a period of the "original package saloon," of the club system, and the institution which became known the country over as the "Kansas drug store." Along with all these, went continually the masked saloon or "blind tiger," maintaining itself more or less precariously by alliance with local politics, frequently licensed by a schedule of raids and fines, until this was stopped by the repulsive expedient of the "ouster" law, whereby public officials can be put out of office incontinently for failure to enforce the law to the satisfaction of the State's attorney. Illicit retail distribution is now chiefly effected by the method known as "bootlegging," and this industry has assumed large proportions all over the State, especially on the southern Missouri border. Bootlegging, unfortunately, has been the principal factor in changing the traffic from lighter drinks, such as beer and wine, to spirits; because the lighter drinks are too bulky to be easily handled. One of the most extensive evasions is in the sale of fortified cider. The Kansas State Board of Health publishes analyses of something over thirty bottled ciders taken from the open market, showing from four to twelve per cent. of alcohol. It is questionable whether as many could be found on

the market in the three States of New York, New Jersey, and Pennsylvania, put together. Probably these ciders furnish the poorer citizens with the stimulation afforded to the transient by the ministrations of the bootlegger and to the more affluent by those of the railway and express companies.

One asks oneself whether, after all, the open saloon would not be almost a fair exchange for the reaction produced upon any society by this kind of thing, by the perjury induced, the encouragement of furtive habits, the general spirit of fraud, deceit and hypocrisy, the abeyance of personal responsibility. And even in the direct view, if Kansas children have never seen a saloon, New York children have never been approached by a bootlegger. But too much may not be made of this. The chief point is that New York children may grow up with a just sense of moral values, in this particular, while Kansas children may not. Indeed, the most serious failure which a critic detects in the proposal to enforce temperance by prohibition, is in its utter upsetting of the sense of moral measure and proportion; and Kansas offers the best possible example of a community thus affected. Her intense pre-occupation with alcohol has raised the problem in far too high relief and sunk other matters of social policy out of focus; in short, it has exercised the debilitating and retarding influence of any monomania. Undoubtedly the alcohol problem is great and difficult; undoubtedly it needs the direction of much more simple and sincere thought than has yet been put upon it. But to admit it as even a social problem of the first order is making a very handsome concession; while to let it monopolize the field of social thought and the output of social energy is the mere vicious pottering of fanaticism. As early as 1882 one of the public men of Kansas gave warning that "there is no other question either of State policy or economy that absorbs so much public attention. . . . In fact, I believe that I state only the truth when I assert that all other State questions have been and are now completely ignored by the people of the State." There is, unfortunately, no doubt of this; and I repeat that this engrossment, this persistent "intending of the mind" upon alcohol, is the most deplorable by-product of Kansas' long campaign. There are citizens of a more cosmopolitan type

who by one means or another have come to take a less parochial view; but the majority magnify the liquor problem and the policy of prohibition to the proportions of absolute monopoly.

The best evidence of this is seen in the insistence on prohibition as a shibboleth to public office. Governor Capper told me with a sort of Ironside pride that it is impossible for any one to be elected to any public office in Kansas unless he is sound on prohibition. Thus, obviously, as Burke says, it must become the first business of a public official "still further to contract the narrowness of men's ideas, to confirm inveterate prejudices, to inflame vulgar passions, and to abet all sorts of popular absurdities." The whole history of the movement is a history of terrorism. Governor St. John made a speech at Leavenworth in 1881, proposing a constabulary or bayonet bill for the subduing of evil-doers; proposing suspension of *habeas corpus* and trial by jury, and threatening Leavenworth with loss of appropriations, as he had previously threatened Topeka. When the constitutional amendment was passed, it carried by a majority of but 8,000, and out of a total vote of 201,236 there were 24,630 who did not vote on the amendment at all—a clear indication, fully substantiated by the literature of the period, that the campaign was a mere unwholesome riot of the worst passions and the meanest prejudices, and that the real sentiment of the State was left undetermined. These are but a few items out of a history so sordid and uninspiring that at the end of it one draws a long breath and wonders whether the politics of a nominal democracy must be forever condemned, like Mr. Weller's charity-boy at the end of the alphabet, "to go through with so much to get so little." After all, human life is very complex, and the issues that affect it are many, and are graduated on a fairly distinct scale of importance, if we will but permit ourselves to see them so. But Kansas does not do this, and until her civilization is extended and deepened, she never will.

And this last observation leads, by a connection that will presently be seen, to a consideration of the "initial advantages" which my informant referred to when he spoke of the possible extension of the prohibition policy to other States. They are usually reckoned at two: the absence of industrialism and the absence of large cities.

From the standpoint of State-wide prohibition, these are undoubtedly great advantages for Kansas, but other States have them too. Her next-door neighbors, Nebraska and Oklahoma, have them. On the strength of these, therefore, it would seem to be as easy to maintain prohibition in Nebraska, say, as it is in Kansas. But these are not all, nor are they the greatest of the "initial advantages" which Kansas had for prohibition. Prohibition, in the largest view, is simply one of the modes of self-expression natural to a certain distinct type of civilization, now happily weakening to the point of general disappearance, but surviving in certain overflows and backwaters. Kansas has this type of civilization and has always had it; her neighbors have not. Hence, if prohibition grew with no less difficulty in its native soil than its history in Kansas appears to show, there is a corresponding expectation of greater difficulty with it in an alien soil, such as other States, in greater or less degree, present.

This matter is worth examination. The territory set off by the Kansas-Nebraska Act of 1854, might fairly be termed the American Balkans, as the alembic of national disturbances. The Act was the last in a series of compromise measures intended to reconcile and accommodate two social theories that in their nature could not be reconciled and accommodated. Whether or no President Pierce had entered into any political trade or deal over the matter, the expectation at Washington clearly was that Kansas should be a slave State and Nebraska free. But Congress so constructed the Act as to leave the question open as a measure of home rule for the inhabitants themselves to decide; thus virtually putting a rich premium upon colonization before both the abolitionist and slave-holding parties. The forces of abolition were the more mobile. Immediately upon the passage of the Act, the Legislature of Massachusetts incorporated the Emigrant Aid Society, and a portion of the stream of emigration which hitherto had gone from the free States into the West and Northwest, was now diverted southward into Kansas.

The result was the border warfare. Kansans say that their State was at war with the whole Union for four years before the Civil War broke out, and perhaps it is no very serious exaggeration to say so. We need not digress into the details of the stormy territorial period,—the period of border ruffianism, of squatter sov-

ereignty and martial law, of raids and incursions from Missouri—when Kansas had at different times two armies on her soil, two Legislatures, and four constitutional conventions! One need note but these few outstanding circumstances of Kansas' birth to perceive at once how prohibition unfolded as a natural development of the spirit of the State. Even now, one has but to attend a public meeting in Kansas and survey the expanse of set, serious, unintelligent faces upturned toward Governor Capper or toward some impassioned preacher of separatist orthodoxy, to imagine perfectly what must have been the reaction of any strong emotion working on all this force of iron prejudice. The great body of Northern colonists came from the Middle West, largely from Ohio, which sheltered the first overflow of New England Puritanism and perhaps, after Kansas, best preserves the Puritan type of social theory. "But," said Mr. Rhodes, in a public address in Kansas a few years ago, "while the Ohio Valley furnished the thews and sinews, it was the spirit of old New England that gave leavening force to this dominant body. *Kansas thus became an expression of nineteenth century Puritanism, and in that fact lies the social significance of the history of our State.*"

Just so; it could not be put better. Brand Whitlock says somewhere that the distinguishing mark of Puritanism is its belief in absolutes—the belief that human beings and human institutions may be absolutely bad or (much more rarely) absolutely good. Whether or no this quite covers the ground, there is at least a full measure of truth in it as far as it goes. But the working social theory of Puritanism certainly postulates the relation between the State and its citizens as that of guardian and ward; and hence it tends continually toward a more and more intimate and personal regulation of conduct. To make this effective, Puritanism depends sheerly upon force. "We must *make* people be good," one Kansan told me; and throughout the State I heard the doctrine of "thy brother's keeper" put forward as an ultimate basis for certain lines of social endeavor which appeared, to say the least, very doubtful. The idea is, in a word, that the way to reform society is by putting as many people as possible in jail; if we can only get enough people in jail, society will be virtuous and everybody happy! I would not

represent the individual Kansan as standing at this extreme; I am merely laying bare the general theory on which his civilization is established.

This theory brings forth two serious practical abuses: first, the pernicious confusion of vice with crime and the consequent tendency to erect vice into crime—the confusion of the offence *malum in se*, or that which is opposed to the general reason and conscience of mankind, with the offence *malum prohibitum*, about which the general reason and conscience of mankind is divided. In Kansas, for example, several persons told me that the prohibition law was not invariably enforced, but that it was, on the whole, enforced as well as the laws against murder and burglary! I was interested, too, in the remark of another citizen, who said naïvely that a small number of foreigners who had settled in the southeastern part of the State were making trouble about liquor, because they “did not understand the law.” Undoubtedly, it is ten to one they did not. The second practical abuse is the intense, hankering interest set up in other people’s shortcomings. It would probably be invidious to develop this point fully, or to go far afield in search of examples. Cromwell’s legislation and the Blue Laws of Connecticut are historical, however, and illustrate sufficiently this inquisitorial and morbid concern with other people’s business, in behalf of some more or less specious notion of public necessity or public good. This trait of Puritanism persists largely in the Middle West, and is scarcely distinguishable from the instinct of the *voyeur* or “peeper.” Kansas has no monopoly of it; one can scarcely pick up an Illinois or Ohio paper without reading of the exploits of some new vice crusade or vice commission, or the pawing and puddling of some Pastors’ Union. The fetid fascinations of this sort of sluttishness, served up as daily news, would be incomprehensible to any spirit but that of Anglo-Teuton Puritanism.

The emigrant settlers of Kansas were full of this social theory—it was bone of their bone, they knew no other—and the savage ruffling of their temper in the border war set it to the consistency of adamant. They went to work to erect a civilization that should express this theory without let or hindrance. The Topeka Convention, for example, seriously proposed that all negroes, slave or free,

should be excluded from the State! Circumstances helped them; their immense remoteness saved their work from being sapped by any alien spirit. The population remained homogeneous; it is now ninety-seven per cent native. Foreign immigration dried up—and no wonder! Governor St. John in 1881 took the ground that the State did not want immigrants “who would grow grapes and who were not willing to give up the beverages they were used to.” Even Governor Capper speaks in a similar vein in a magazine article printed only the other day—so little has Kansas been touched by the heat of the melting-pot.

In a circular of the New England Emigrant Aid Society, sent out July 2, 1855, asking all the clergymen of New England to become members and help raise a fund of \$150,000, the objects mentioned are Freedom, Religion, Education and Temperance—the four very last things, one would say, in view of the history of Puritanism, that a Puritan organization should pretend to meddle with. The last paragraph of the circular sets forth that “traffic in intoxicating liquors scarcely exists in any one of the [Kansas] towns founded with the Company’s assistance, and any attempt to introduce it will be resisted by their citizens.” At the first social gathering held on the site of Topeka, May 17, 1855, were assembled all the people living for miles around (except the Indians!). The four sentiments there proposed were: Our Territory; The Influence of Woman; Our Friends at Home; and The Maine Law; “may it be to Topeka what the main pillar is to the temple of liberty!” The Methodist Church, which from its foundation in America has maintained the Puritan attitude towards liquor, was organized in Kansas in 1845, and is now numerically the leading denomination; while the Presbyterian church has been expressing what Burke finely called “the dissidence of Dissent and the protestantism of the Protestant religion,” for nearly as long a period. Many of the earliest title-deeds contain a proviso that liquor shall never be sold on the land, under penalty of reversion. A “Prohibition Colony” came from Illinois and organized in Dickinson County, under a clergyman named Christopher, in 1871. A certain firm, as early as 1883, gave notice that if any employee were seen in saloons at any time or known to drink intoxicating liquor “in any form or degree,”

he would be discharged; and within a week after the order, they did actually discharge thirty men.

All this tends to show how prohibition came to pass in Kansas, and how much more her "initial advantages" amount to over mere geography. She was colonized by the unqualified Puritan temper, seven times refined to the acme of truculence in the fires of the Border War. She has kept inviolate her intellectual and spiritual isolation, her inaccessibility to ideas, and hence her dominant social theory is as stoutly Puritan as it ever was, and her general civilization faithfully reflects it.

Now the trouble with Puritan civilization is that it provides for too few needs of the human spirit. The defenders of Puritanism have always been hard put to it to answer the question which is surely the most natural in the world: If Puritan civilization is so good, why did it so soon collapse? Above all, why did it collapse as promptly in New England as in Old England? Cromwell did great things for Britain; the Puritan fathers surely did great things for the Colonies. Why, then, did the English people almost immediately swing back to the false and vicious system of the Stuarts, and why did New England so shortly fall away from Puritan traditions and social theory?

Puritanism wholly satisfied the one great instinct of workmanship, of expansion. One can *do business*, as the saying is, under Puritanism. It largely satisfies the instinct of morals—with some important qualifications which we need not dwell on here. But the human spirit can not work exclusively along the lines of business and morals; it has other instincts, too, which a civilization that has hope of permanence must meet and satisfy. The instinct of social life, of intellect and knowledge, of beauty, of religion—these Puritanism never satisfied, nay, it maltreated and suffocated them. Puritanism is overspread with the curse of hardness, and the penalty that nature puts upon hardness is hideousness, dismalness. Human society swings away from Puritanism because the pressure on its obtunded instincts of intellect, beauty, religion and social life became more than it could bear.

In 1881 an intending immigrant in South Germany wrote a letter to some one in Kansas in which he hit the precise note of criticism.

"None of my friends can imagine themselves living under such stringent laws," he says, "and they think *it cannot be good where such laws are considered necessary.*" Quite so; a civilization that does not meet these elemental demands of the human spirit offers a life that *cannot be good*, a life that is illiberal and dissatisfying, and no amount of business opportunities and factitious morals can reconcile one to it. We ourselves, generally speaking, have perhaps not yet sufficiently emerged from the influence of Puritanism to be as keenly aware of this as our immediate descendants will be; but the foreigner, especially of the Latin or Slav type, imaginative, sentimental and well-mannered, is aware of it at once.

All this is by no means paving the way for an intimation that Kansas ought to enlarge and deepen her civilization by opening houses. Far from it. I heartily congratulate her on getting rid of the saloon, and I hope it will never come back. I am merely showing what seem to me to be the chief ground for dissatisfaction with the method employed in getting rid of it, and for believing that it cannot be generally adopted. Nor would I be thought to appraise and measure civilization by its distance from Broadway. The cities of Arles and Ancona are about the size of Topeka, quite as far from Broadway, figuratively, as Topeka, and like Topeka, they have no saloons. But the quality of life in Arles and Ancona is very different from the quality of life in Topeka; and one need see but a very little of it to find it so. The civilization of French and Italian cities has its weaknesses, no doubt; it fails somewhat in meeting the instinct of expansion, for example. But it meets the instinct of knowledge and intellect; ideas are current there, and are handled disinterestedly and not with the fierce, dogged, provincial obstinacy that Puritanism employs towards ideas not of its own devising. Moreover, this civilization has the invincible attraction of beauty and amenity, it is *amiable*; and the civilization of Puritanism is not.

As the shadow of Puritanism declines, we shall get a new light reflected from older civilizations upon many social difficulties that have so far refused to yield to the method of stark, unintelligent repression which is the only one that Puritanism knows how to employ. With regard to the one problem which Kansas has been

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so grotesquely misled by her Puritan strain as to consider paramount * it is interesting to find that a citizen of Kansas wrote in 1881 as follows:

Had it become known abroad that Kansas had succeeded in establishing a law restricting the manufacture and sale of spirits and confining the sale of wine, beer and cider to respectable resorts . . . we should have had the approval of all good people, the cheerful co-operation of all respectable foreigners, and the example would have been one worthy of imitation.

There is no doubt of this. It is owing to this simple and constructive expedient that the liquor problem, which has proved so refractory in the Puritan civilizations of England and America, has been so handily managed by civilizations of a different type. The above was written at the time when prohibition was being seized on to bolster the shaky fortunes of the Republican party in Kansas, and it fell on the deaf ear of Puritanism. Yet how easily otherwise such a measure might have prevailed then and might prevail now, whether the issue be regarded as local, State or national! A differential tax, graded according to alcoholic content, and a modification of the saloon such as the Public House Trust and (since the war) the British Board of Control are effecting in England—making the saloon a place of decent resort and general refreshment like the *Bierhalle* or the Continental café: these two logical and lucid measures alone would reach the core of the problem which prohibition merely fumbles, and carry it nine-tenths of the way toward final solution.

I suggested this to Mr. William Allen White, who is probably the best informed and the ablest native critic of Kansas affairs. He replied with sterling frankness that it was the best way if it could be had, but that it could not be had in Kansas. If the liquor trade, he said, had ever offered a suitable compromise proposition in good faith, there would never have been prohibition in Kansas, and if it were not for the defensive alliance between the manufacturers of

* For example, to the eye of sober judgment the problem of the increase of tenant farming is much more serious in Kansas than the problem of alcohol ever was or could be.

wine and beer on the one hand and the manufacturers of spirits on the other, there would be no prohibition there now. But as things are, prohibition is the less of two evils, and would have his advocacy.

Insight into the real nature of the problem, like this on the part of Mr. White, argues favorably for practicable reform. With the inevitable weakening of the civilization and social theory that maintains it, prohibition must inevitably weaken and be found wanting; and that time is near at hand. Allowing a maximum for the force of a crude and unintelligent Puritanism in the public and an equally crude and unintelligent Bourbonism in the trade, there still must be in both, even now, a force of sound critical opinion that might unite on a policy that other countries have tried and found to be at once simple, constructive, and satisfactory.

PROHIBITION AND CIVILIZATION

By Albert Jay Nock

(In *North American Review*, September, 1916)

Prohibition as a policy, has had a great deal of public attention, but the kind of civilization connoted by prohibition has had very little. This is unfortunate, because the general civilization of a community is the thing that really recommends it. The important thing to know about Kansas, for instance, is not the statistics of prohibition—as most writers on the subject seem to think—but whether one would really want to live there, whether the peculiar type of civilization that expresses itself through prohibition is really attractive and interesting.

The Reverend Floyd Keeler, for example, writing in the *July Atlantic*, devotes a whole article to proving that, in Kansas, prohibition does prohibit, within limits. This is not without interest, of course; still, it would seem much more interesting and truly practical to tell us what life is like under a general social theory of negation and repression: for such is what life in Kansas comes to. That, after all, is the determining test. Burke says—and I earnestly commend his words to the advocates of our grand new policy of Americanization, whatever that means. "There ought to be in every country a standard of manners that a well-formed mind would be disposed to relish. *For us to love our country, our country ought to be lovely.*" No one can fail to remark, in the present war, the immensely superior spirit of the French in defense of a truly lovely civilization. The final test, indeed, of any civilization,—the test by which ultimately it stands or falls,—is its power of attracting and permanently interesting the human spirit.

Concerning Kansas, therefore, the question is not whether prohibition prohibits, but whether, under prohibition, the general civilization is such as "a well-formed mind would be disposed to relish." Kansas, as I showed in my former paper, is essentially Puritan: and

the secret of Puritanism's downfall was in its failure to meet this test. An English critic of Puritanism gives a vivid example of the precise line of criticism by bidding us imagine Shakespeare and Virgil coming over on the *Mayflower*, and think what intolerably bad company they would have found the Pilgrim Fathers! William James was probably as distinguished a lover of the humane life as America ever produced; and we all remember with amusement his naïve cry of relief at leaving the vapid and orderly perfections of Chautauqua, that vast playground of middle-class Puritanism. Well, similarly, one has but to imagine some disinterested lover of human perfection like William James making a candid examination of the civilization of Kansas, and one knows at once what the verdict would be. It is beside the point to say that Kansans would not agree to this verdict: that Governor Capper, who "really knows Kansas," would repudiate it: that Mr. William Allen White would treat it lightly and Mr. Walt Mason make a jingle about it. There is a standard set for such matters by the best reason and judgment of mankind; and in any disinterested estimate of a civilization, a verdict of William James would be apt to come nearer the mark of general human experience than one of Governor Capper or Mr. Mason, or even, probably,—though I do not like to think so,—than one of the accomplished Mr. White.

By far the greater part of the power and permanence of a civilization resides in its charm. It is surely noticeable, for instance, that wherever French civilization once strikes root, it remains forever. The border provinces, the Province of Quebec and our own State of Louisiana, are as obstinately and unchangeably French as ever they were. The reason is that French civilization satisfied the human instinct for what is amiable, graceful and becoming, and men cleave to it. It appeals to them as something lovely and desirable, rather than as something merely rational and well-ordered, which is the chief appeal of the German type. Under the State Socialism of Germany one is continually confronted with the social relations and consequences of practically every move one makes. The principle of prohibition is extended to cover an endless range of conduct (though, significantly, drink is exempt). The home scheme of social life is ordered with excellent and obvious ration-

ality, but it is devoid of charm, it has no savor, and all its reasonableness cannot make up for the deficiency, cannot make the normal spirit really enjoy it. One feels the same restlessness and perverseness under it that William James declared he felt under the régime at Chautauqua. One doubts whether such smooth-running social order is worth having at the price. I remember some years ago, after a long time spent in observing the ghastly perfections of German municipal machinery, I came home ready to rejoice in the most corrupt, ring-ridden and disreputable city government that I could find in America, if only I might draw a free breath once more and forget the infinity of things that are *verboten*.

Such is the universal perversity of human nature, and it is something to be reckoned with. In my mind, it has always been the one insuperable objection to Socialism. The Socialists are at a loss to see why we do not all fall in at once with their orderly and rational scheme, just as Mr. Keeler, speaking in the *Atlantic* for the people of Kansas, wonders why we do not all fall in with prohibition. The answer is the same in both cases. Men look at the essentially Socialistic civilization and the essentially Puritan civilization, give them due credit, acknowledge their virtues, and then pass them by. Nay, further: we look at the type of people produced by these civilizations, we consider them attentively, and then make up our minds quite firmly that no amount of social benefit would be worth having if we had to become like them in order to get it.

The civilization of Socialism, however, is rational. It has that sound merit, just as civilization of one Latin type has the merit of beauty and amiability. But Puritan civilization has neither. It has all the flat hideousness of Socialism, without the rationality which Socialism has managed to redeem by its contact with great world-currents of thought. Puritanism is essentially a hole-and-corner affair, with its arid provincialism untempered by contact of any kind. Its ideals are grotesque and whimsical; its methods are unintelligent—the methods of dragooning. Mr. Keeler must forgive my plain speaking; it comes of a sincere desire to resolve his doubts about the sanity or integrity of the brute mass of us who look unmoved on the progress of prohibition in Kansas. We cannot

accept prohibition without accepting the civilization that goes with it, for prohibition cannot stand on any other soil. To get even the attenuated benefit of prohibition in Kansas, our community-life must become more or less like that of Kansas, and we ourselves more or less like Kansans; and this is wholly impossible and unthinkable.

Indeed, it is from precisely this condition that the general spirit of America is struggling to emerge. The original implantation of Puritanism, with all its crudeness and rawness and lack of imagination, for a long time dominated our life and narrowed our ideals. But its influence is rapidly passing away. As evidence of this, it is most encouraging to note the disappearance of the old unintelligent forms of partisanship and sectarianism, and the steady fixture of the right of final private judgment upon public affairs. Our institutions have become more rational, flexible and responsive, and our methods more enlightened. Even in our prison and police methods we have already swung a long way from the Puritan theory of punishment towards the more civilized theory of reclamation.

Along with these changes there has come the perception that society should leave to each person an ever-increasing maximum portion of his own life to regulate for himself. This is not only true with reference to organized or statutory interference, but with reference to the arbitrary and unreasoning pressure of public opinion. The Puritan theory of "thy brother's keeper" has been largely disallowed. We scarcely realize the extent of these wholesome changes in our social life until our attention is called to them by some recrudescence of the Puritan spirit. Not long ago, for instance, the Superintendent of Police in Chicago swore in half a dozen police-women to suppress what Mr. Howells once called "public billing and cooing" in the parks. Some members of the Virginia legislature put in a bill to ban the short skirt and low-cut waist. The time was, not more than twenty-five or thirty years ago, when whimsies and antics like these on the part of public officials went almost unquestioned—when our theory of public office was practically that of a New England village beadle in Colonial times. Now, however, they appear to us as morbid and silly extravagance, carrying their own sufficient condemnation in their sheer absurdity. And yet it is well worth while to note such happenings, because they indicate the

temper of Puritanism so clearly, and show the length of nonsensical hypocrisy to which it is ready to go.

The advocates of prohibition ought to get a clear grasp of the fundamental objection to their theory, and meet it with something more substantial than feeble talk about the influence of "the liquor interests." Our objection is to Puritanism, with its false social theory taking shape in a civilization that, however well-ordered and economically prosperous, is hideous and suffocating. One can at least speak for oneself: I am an absolute teetotaler, and it would make no difference to me if there were never another drop of liquor in the world; and yet to live under any régime of prohibition that I have so far had opportunity to observe would seem to me an appalling calamity. The ideals and instruments of Puritanism are simply unworthy of a free people, and, being unworthy, are soon found intolerable. Its hatreds, fanaticisms, inaccessibility to ideas; its inflamed and cancerous interest in the personal conduct of others; its hysterical disregard of personal rights; its pure faith in force, and above all, its tyrannical imposition of its own *Kultur*: these characterize and animate a civilization that the general experience of mankind at once condemns as impossible, and as hateful as it is impossible.

The drink problem is, as I said in my former paper in the REVIEW, by no means a problem of the first order, and it is perfectly open to a solution that is rational and consistent with a type of civilization appropriate to this country. It can be solved by a process analogous to the "Safety First" movement directed against the far more important problem of industrial accidents, or like the movement for a "safe and sane" Fourth of July. These reforms were effected in perfectly cool temper, without any rampant orgy of law-making, and without involving any reflection on either our national dignity or intelligence. Contrast them, for instance, with our ill-considered and ineffectual handling of the problem of the white slave traffic, resulting in the stupidities of the Mann Act—the most efficient agent of blackmail, probably, that any Government ever devised! There is no reason why the United States might not become a sufficiently temperate nation without the sacrifices required by prohibition.

Why might not some State, for instance, make a simple experiment in differential taxation; and with that, why might not some community take up the problem of retail distribution,—the saloon problem,—with seriousness and commonsense, providing such a type of resort as exists everywhere on the Continent and is being introduced in England? Such a policy as this is constructive, not negative, and, when laid down, is done with once for all. A graded tax bearing very heavily on high alcoholic content, and a method of retail distribution modelled after the Public-House Trust: if any State should make this constructive experiment, it would be interesting to compare the results with those that are to be observed in Kansas or in any other State that has embarked on a course of prohibition.

MISSISSIPPI'S EXPERIENCE WITH PROHIBITION

By James Hancock

Mississippi was one of the first States in the South to adopt prohibition in a movement which had for its announced purpose the keeping of intoxicating beverages away from the negro population through the instrumentalities of a statute law.

At the outset of the prohibition movement in Mississippi, the reformers boldly declared that their purpose was to deny to the negro population of the State the opportunity to buy intoxicants in a licensed saloon or wholesale house, and they asserted that this denial would end practically all drinking on the part of the colored man. They let it be known that the white population would have no trouble securing all of the liquor they wanted; that it could be purchased in other States and stored for personal use. The great planters of the Mississippi Delta were led to believe that prohibition would practically wipe out crime; that it would stop loafing, abolish the shiftless and vicious habits of the lower class of negroes and thereby give them dependable labor on their cotton plantations. The land owners were also led to believe that prohibition would result in an economic blessing; that the cost of government would be less and taxation lighter.

Under these assurances and conditions, the people of the State elected a Legislature pledged to enact the prohibition legislation. It would seem that no State in the union was better adapted to give the prohibition experiment a more faithful trial than Mississippi. The political equation was negligible for the reason that since the reconstruction period there has never been but one party in the politics of the State. The prohibition law could not be made a football for politics. The "outs" in State politics could not organize, with any hope of success, a campaign against the "ins" with the prohibition law as the issue. With political peace thus assured, the advocates of State-wide prohibition expected much and promised more of their law.

It is a part of Southern history that the prohibition movement in the South began in Mississippi, with the purposes in view as already described. From Mississippi the movement spread to other States, with the result that almost the entire South, east of the Mississippi river, is under prohibition laws. But Mississippi is the garden spot of Southern prohibition, and a study of its experiences will supply the investigator with the best things that prohibition can possibly accomplish.

Official records at Jackson do not bear out any of the promises made by the advocates of prohibition at the outset. The law has not abolished crime. On the other hand crime is increasing. It did not change the habits of the colored population to any appreciable extent. The shiftless negro is still shiftless; the vicious element of that race is yet vicious. Labor is no more dependable now on the cotton plantations than it was before the new regime. Taxation has not been reduced; rather it has been much increased. The cost of government shows no reduction. Taxation is higher now and bond issues more frequent.

STATE AND COUNTIES ON CREDIT BASIS

The State of Mississippi and many of its counties are to-day running their fiscal affairs on a credit basis. The man or firm who receives a State or county warrant to-day for services rendered or supplies furnished, does not know when he can convert the warrant into cash without standing for a ruinous discount at his bank. This discount ranges from fifteen to twenty per cent.

Contractors who bid on any public work, such as road building, levee construction, the erection or repair of public buildings, furnishing supplies to a charitable institution and the like, first ascertain what the warrants of a county or State department are worth, and add the discount to their bids. There is no way to ascertain what this credit system is costing the people of the State, but it is very large each year in the aggregate.

The heaviest part of this burden falls on those who receive warrants for their labor. The big contractor anticipates the discount when he makes his bid, but the public school teacher in many coun-

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ties must work for thirty dollars a month and lose a discount of 20 per cent on his warrant, which reduces his monthly income to twenty-four dollars. The same rule holds good with other employees of the bankrupt counties, and in some instances of the State. In his last biennial report, discussing this credit system, the auditor of the State exclaims: "Think of a public school teacher having to lose twenty dollars out of a warrant for \$100!" However, public school teachers of Mississippi are forced to sustain this heavy drain on their earnings.

SLOW PROGRESS IN DEVELOPMENT

The State Superintendent of Public Instruction for the State of Mississippi lays it down in his biennial report as a self-evident proposition that education stands at the head of all State development. While Mississippi is, of course, making some progress in educational work, it does not in any sense satisfy the public, or the men and women engaged in the work. The teachers and the schools are denied the financial support that everybody admits they ought to receive from the State and counties. With a fiscal system that would supply them the needed revenue at the proper time, the growth and development of the public school system would be more satisfactory. But the average Legislature of the State seems to labor under the delusion that with prohibition in operation, all other blessings should come of their own motion like water from a mountain spring. The State appropriates about \$1,500,000 to educational purposes, but under the credit system already described, it is difficult even to approximate how much of this sum is lost to the teachers and the schools. The State and county officials themselves do not know how much is lost by these discounts.

Funds are lacking all over the State with which to erect modern school buildings and equip them in modern fashion. At points far removed from each other throughout the State, the traveler sees some modern school buildings, but if he travel through the eastern and middle sections of Mississippi, he sees the most primitive school-houses—small houses in the main, built of rough lumber and con-

taining but one room into which children are crowded to get their education under conditions that prevailed when the South used the Blue-back Speller before the Civil War. Ignorance among both black and white is a result of this archaic condition in the public schools of Mississippi.

During the last session of the General Assembly of Mississippi, school men, and those in charge of the charitable institutions of the State, made a desperate effort to secure more money for their work. The needs of all such institutions were described as acute and the Legislature was asked for appropriations to relieve the most pressing necessities. It was shown that there was not sufficient room in most of the rural school houses, and many not so rural, to accommodate the pupils; that more and better school houses were absolutely necessary to take care of the increased attendance. State and county asylums of all kinds were reported to be crowded with inmates, without the proper facilities for safeguarding health.

A sympathetic member of the Legislature would introduce a bill to appropriate \$15,000, for example, to install a heating system at an asylum, but the watch-dog of the treasury would immediately rise in his place and oppose the appropriation on the ground that if made it could not be paid from the State treasury. Upon a dozen like occasions this member warned the assembly that appropriations already exceeded the anticipated revenue by a half million dollars. These incidents are duly recorded in the newspaper reports of the legislative sessions and appear on the minutes of the House of Representatives. All of the charitable and eleemosynary institutions of the State were begging for money to meet the demands upon them and to care for the unfortunate inmates in a humane manner. As a matter of dire necessity, however, petition after petition was turned down, and there is hardly a public school district in the State, and certainly not a charitable institution, but suffers for lack of money properly to care for children who desire education, and otherwise discharge its lawful functions. There was no secret about these conditions, and no attempt to cover up the fact that the State and many of the counties were practically bankrupt.

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REPORT OF THE STATE AUDITOR

Official verification of these observations and much more, may be obtained from the biennial report of the State auditor. This report covers a period from October 1, 1913, to October 1, 1915. In 1888, the State had a bonded debt of only \$103,000 and was taking care of its liabilities, less some that had been repudiated, when due. However, bond issues soon became necessary to cover deficits, and the report of the auditor shows that the bonded debt is now \$5,102,000.

With a bonded debt of only \$5,102,000, it would seem that the State ought to be in better financial condition, but that it is running on a credit basis is not denied in any of the official reports. Two years ago the property assessment for taxation in the State was \$441,000,000. The assessment for the current biennial period shows a decline of about \$21,000,000, and the auditor estimates that this decline in values loses to the State treasury about \$125,000 in taxes. The tax rate now in effect is six mills on the dollar, the highest rate ever known in the State and among the highest ever known in the South.

MORE BONDS MUST BE ISSUED.

The bonded debt of Mississippi was necessary in the main to pay deficits in State revenue. That another issue will be needed at an early date for the same purpose, is shown by the report of the State auditor. In this report he says that there were practically no "extraordinary obligations" to take care of during the biennial period. At the end of the period covered by the report, or on October 1, 1915, the deficit in the revenues of the State was \$891,752.18. For the biennial period ending October 1, 1917, a year hence, the estimated deficit, as set out in the auditor's report, is \$1,379,270.49. On that date Mississippi will be compelled to sell bonds to cover the deficit, running her bonded debt to about \$7,000,000.

Addressing himself to the Legislature, the State auditor says: "The legislator has been liberal in making appropriations to carry

money back to his county. One-fourth of the counties receive more from the State than they pay to it. But he has been guilty of legislative cowardice in not increasing the tax rate to provide for the increase in appropriations. The obligation incurred by such may be warded off until another administration, or even until another generation, but it must be paid by the taxpayers sooner or later. It is now your duty to increase the tax rate, to authorize special loans, to issue more bonds or to reduce appropriations; otherwise the appropriations that you will probably make can not be paid."

A prohibition Legislature, however, knows its own business and resents dictation from a mere auditor. None of the recommendations of the auditor was followed, and the State faces a deficit of about \$1,500,000 in its revenues at the end of the biennial period, for recent developments indicate that the State auditor was too conservative in his calculations last year. The deficit will go considerably beyond his figures.

Continuing his comment on the fiscal affairs of the State, the auditor says that "county warrants are not worth par in many counties, and the discount rate is high. In more than one county the rate is twenty per cent. Think of a school teacher being required to lose twenty dollars out of a warrant for \$100!" Again, he says: "To what end will this ungovernable practice hurl itself? By all means it should be bridled by legislation. One would think at first glance in such counties that those having claims against the counties are the sufferers. Such is the case with those having small claims, but with those having large claims the discount is anticipated and the price is increased to include the discount. So the taxpayers of the county, then, pay the discount. Laws should be enacted which will prevent this trouble. A bank that has qualified as a county depository should not be permitted to discount warrants or paper issued by the county."

A story is going the rounds in Mississippi that some county banks, many of them in fact, are waxing fat on this graft. They belong to the class of country banks that were hauled over the coals some time back by the national comptroller of the currency for charging excessive interest rates. There is plenty of evidence

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that such banks are hand-in-glove with the prohibitionists and can, therefore, do no wrong. It is charged that they play this warrant-game at both ends and in the middle. They get the heavy discount at the beginning, then charge something for renewal, and finally collect from the county interest on the warrant from date of issue to the day it is paid from the proceeds of a bond issue. Evidence to sustain this charge is lacking, but the fact that the State auditor recommended a law to prevent such practices is taken as proof that the robbery is not altogether a figment of the imagination.

On the subject of State institutions the auditor says: "The needs of the charitable, eleemosynary and educational institutions are indeed great, and no doubt the legislator will be greatly surprised at them; likewise great are the demands for public education." No department of the State government mentioned by the auditor has sufficient money properly to discharge its obligations to the wards of the State, or to public education. It is not stressing the point too hard to say that all of these institutions are being starved to death, that the people of the State may enjoy the unseen beauties and undiscovered benefits of prohibition.

The State of Mississippi formerly collected from a licensed liquor traffic about \$300,000 a year. It could collect more from it now.

HOW PROHIBITION IS EVADED

The race of people that prohibition was intended for most especially in Mississippi were the first to find ways of evading the law. It did not take them long to discover substitutes for barrooms. These substitutes are in evidence to-day. If you ask a policeman where all of the empty liquor bottles come from that you kick out of your way in depots and other places where the common people congregate, he will tell you that it is "bootleg liquor." If you ask him if there is much of that sort of business in his town, he will reply "a whole lot." Pressed for the approximate number of "blind tigers" in his town or city, he will tell you that "there are a right smart of 'em." In the towns and cities of the State, as in every other prohibition State, the substitutes for the licensed saloon are bootleggers, and blind tigers, with the "kitchen bar" thrown in for

good measure. All of these flourish in the cities and towns of Mississippi.

The Mississippi law permits the citizen who has the price or the credit to receive from some other state a gallon of whiskey a month under protection of the interstate commerce laws. This is the real end of Mississippi prohibition. Wholesale dealers in Memphis and New Orleans, and some other cities, do a large business in Mississippi. Every express train carries a consignment to every town and city. You see it unloaded from the express cars at all of the depots where trains stop. Liquor is received by boat on the river at all landing places and smuggled into interior towns and cities, where it is sold by bootleggers, etc. The rich cotton planter stocks his cellars with all the liquor that he and his friends can consume. He has merely gone back to the fashion that prevailed during the days of slavery in the South, when large cellars were kept well stocked with liquors, some of it coming from beyond the seas.

Out in the country, away from the best civilization of the State, illicit stills are abundant. The output of these stills is sold to the colored population and the lower element of the white race in the main. Even the most simple class of the colored population has long ago learned the process of making liquor with a still that may be purchased for a few dollars and installed on the premises. From these stills and from bootleggers an abundant supply of poor liquor is easily secured.

In the fall of the year when syrup cane gets ripe, the beer season is ushered in with the beginning of cane-grinding. It is not an uncommon sight to see a woman and a half dozen children operating the primitive molasses-making machine on the side of the road, grinding cane and boiling it into molasses, while a half dozen men sleep under a convenient tree. The men are drunk on fermented cane juice. The first half barrel of juice that comes from the cane mill is poured into a barrel, or wash-tub, and placed in the sun to ferment. In a few days fermentation has advanced to the stage that will intoxicate. They call this beer in Mississippi. It produces a drunk much like the one that comes from West Virginia's hard cider, but lasts longer. Barrels of cane juice are stored away until

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Christmas, by which time it is extra stout, and the entire community gets drunk.

Mississippi has every device known to a prohibition State for securing liquor, and exhibits a number of devices that are not seen in any other State. To say that the law keeps liquor out of the State, that it keeps it away from the negro population, is to deny recorded history, for the police courts, and even the Supreme Court of the State, punish men and women every day for being drunk or for some infraction of the prohibition law.

CRIME STATISTICS NOT AVAILABLE

Mississippi keeps no record of crime in available form. The reports of the attorney-general of the State cover only the criminal cases that are appealed to the State supreme court. The biennial report of this official, closing with October 1, 1915, records 360 criminal cases as having been appealed. He says: "The crime work is increasing very rapidly, as shown by tables." The table to which he alludes shows that for the period covered by the report, he tried 84 murder cases. His report for the preceding biennial period shows that 59 murder cases were before the Supreme Court. The increase in murders, therefore, in two years is about thirty per cent. It is sixty per cent higher than it was twenty years ago. The crime of assault with intent to commit rape, the crime in which the white people of the State stand in most dread, shows an increase of thirty per cent in two years, and fifty-five per cent compared with twenty years ago. The crime of rape increased twenty per cent in the two years under comparison. It is of importance to note that no felony included in the attorney-general's table showed a decrease over the preceding biennial period.

The lesser crimes seldom reach the Supreme Court. There is no available record of these, but it is reasonable to conclude that inasmuch as the felonious crimes have largely increased that petty crime has increased throughout the State in about the same ratio. The attorney-general's office, while having no recorded data, admits that crime is increasing throughout the State. A large proportion of the criminal prosecutions are for violation of the prohibition law.

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Last year 124 cases of this class were appealed to the Supreme Court, or one-third of the total number of appealed cases. The large number of cases appealed to the Supreme Court is further proof that Mississippi's prohibition law is not respected very much.

SOUTHERN PROHIBITION AND THE COURTS

By James Hancock

The prohibition States of the South have become famous for revolutionary laws and strained court decisions in their efforts to enact and enforce sumptuary legislation, so much so that they have attracted more or less attention all over the country.

No prohibition law has ever been able to stand alone. Ten years after the enactment of original State-wide prohibition laws, we find State legislatures enacting legislation intended to brace and strengthen the original acts.

Courts under the whip of the Anti-Saloon League have rendered opinions and changed rules as revolutionary as some of the so-called temperance legislation itself. If an act of the legislature fails to carry out the wishes and intentions of the Anti-Saloon League leaders, the latter center their influence and energies on the courts to have laws construed to their liking. These policies have been carried to such an extreme that the best constitutional lawyers in the southern States can not with safety advise their clients concerning the many questions raised by prohibition legislation.

Lawyers, of course, know what a court held last year on a given point, but they are in the dark as to the length of time a decision will be permitted to stand. Not very long ago, for instance, one of the ablest constitutional lawyers in Tennessee received a letter from a brother lawyer in Mississippi seeking advice in a lawsuit then pending in the courts of his state, in which he was counsel for a brewer who was trying to sell a non-intoxicating malt beverage in that State. The Mississippi lawyer explained the points at issue and the position he had taken for his client. The Tennessee lawyer replied about as follows:

"All of the law and a majority of court decisions are on your side; but my experience in trying lawsuits involving prohibition

laws is that we cannot depend upon courts to follow the well-beaten paths. I can advise you confidently how our courts will hold on questions involving the rights of the citizen to own and sell land, cattle, hogs, corn, wheat, and so on; but as to what they may decide in a case in which a prohibition law is to be construed, I must in sincerity say to you that I hesitate."

Under the plain letter of the Mississippi law the brewer had a legal right to sell his malt extract in that State, but the courts barred the beverage on the ground that, while the sample submitted would not violate the law the next sample might do so, and, in the interest of safety, the product must be denied sale within the State. Plainly, therefore, the Mississippi courts wrote a meaning into the prohibition law of that State that the law itself did not contain or even intimate.

A somewhat similar opinion was rendered in a Tennessee case. The "Manufacturers' law" of Tennessee prohibits the manufacture of liquors for sale within the State. Fearing that this law would be declared null and void on the ground that it might interfere with interstate commerce, the same prohibition Legislature that passed it solemnly enacted that nothing in the "Manufacturers' law" should be so construed as to conflict with interstate commerce laws of congress.

A noted distiller, taking the Legislature at its word, began manufacturing liquor for interstate shipment. He was indicted for violating the Manufacturers' law. The trial court charged the jury trying the case in substance that, while the Manufacturers' law had probably not been violated in the present instance, there was nothing in the evidence to show that the defendant distiller did not intend to violate the law at some future time, and that he must be convicted. The defendant was convicted and the Supreme Court of the State upheld the verdict of the lower court.

Here was another instance in which the courts wrote into a prohibition law a letter and meaning that the law itself did not contain. Wholesalers, finding that they could not manufacture liquors in Tennessee, instituted suits to ascertain where the State's authority ended and where the rights of interstate commerce began. After

much expensive litigation, some of it extending to the United States Supreme Court, the latter court setting aside an important opinion of the State courts, it was finally determined that a wholesale liquor dealer under the Tennessee prohibition laws may maintain a situs within the State from which to conduct an interstate business. However, he must purchase his stock from distillers in some other State. He cannot manufacture it in Tennessee.

In the quite recent litigation at Seale, Ala., we find another record suggesting, at least, prejudice on the part of the courts against defendants indicted for violating prohibition laws. The Attorney-General of Alabama seized a large stock of liquor at Girard, the stock being valued at about \$400,000 wholesale price. The Attorney-General held that he had ample authority under the Alabama prohibition laws to immediately destroy all of this liquor. Governor Henderson, however, held that the Attorney-General could not lawfully destroy the stock without a court order. Suit was then instituted by the Attorney-General's office to determine the matter. The circuit court of Russell county, in which Girard is situated, held for the Attorney-General, but the owners of the liquor appealed to the Supreme Court of the State. The appeal automatically stopped the Attorney-General. Under the rules of the circuit court the defendant owners of the liquor had thirty days in which to perfect their appeals, making their bonds, etc. Temporarily the civil case rested here.

The Attorney-General immediately moved for a special term of court to indict the Girard liquor owners for violating the prohibition laws. The chief justice of the Alabama Supreme Court designated a supernumerary circuit judge from another part of the State to sit during this special term of court, and Solicitor Hugo Black of Birmingham was appointed to assist the Attorney-General in the prosecutions. When the cases against the defendants were called some of them did not answer, being away in Florida on an alleged fishing trip. Their bonds of \$250 were declared forfeited.

Solicitor Black the day following this incident made a motion that the defendants, being fugitives from justice, had forfeited their standing in the courts of Alabama and could not, therefore, perfect their appeals in the civil cases; that the appeals had been automatic-

ally stopped by their abscondence. He also made the point that nothing then intervened between the liquor at Girard and the sheriff. The court upheld both motions in the face of violent objection by counsel for the defendants, and the sheriff was ordered to proceed to destroy the liquor. By the time he had destroyed some \$200,000 worth of the liquor, the appeals were perfected and the court ordered the sheriff to desist.

Counsel for the liquor owners contended that the court being a special and extraordinary term did not have authority to set aside the rules of the regular circuit court, which had given the owners thirty days in which to perfect the appeals; that inasmuch as the thirty-day limit had not expired, the owners were taken unawares and that their property had been destroyed without due process of law. All of these contentions were brushed aside by the presiding judge. The fact that after half the liquor had been destroyed before the appeals were perfected, that the court stopped the destruction of the remainder, has been cited as evidence that more or less prejudice existed in the mind of the court against the defendants. This controversy will be fought out before the Supreme Court of Alabama, and most likely before the United States Supreme Court.

If one leaves the field of litigation involving the rights of wholesalers under prohibition laws and enters the field of the large retail traffic in prohibition States, he encounters probably more surprising pieces of legislation and court decisions than he finds elsewhere. It has already been laid down as a self-evident fact that no prohibition law has been able to stand alone. It must have bracing and strengthening legislation, and, in addition, the friendship of the courts. Much of this legislation to re-enforce prohibition laws, and many court decisions, form a most interesting study to the man of an investigating turn of mind.

Tennessee probably leads all of her southern sisters in the matter of enacting what have come to be known as "fool laws." First, it was the "nuisance" law which prohibited the property owner from renting his property to a saloon keeper, and defining a saloon as a nuisance to be suppressed by law. After a trial of more than a year, this law failed to meet the expectations of its friends. It died a natural death—no longer respected by its parents. Then came the

"ouster" law, which has caused more disorder in Tennessee than any law ever written into the statutes of that State. Under this law if the officers of the law do not enforce a prohibition law satisfactorily to the leaders of the Anti-Saloon League, they may be removed from office on the petition of citizens.

While the ouster law of Tennessee does not mention the matter of trial by jury, the constitution of the State clearly provides that when a citizen is accused of a crime that he shall be tried by a jury of his peers. Mayor Crump of Memphis demanded trial by jury when he was arraigned under this law for alleged failure to enforce the prohibition law. He was denied the right, and the Supreme Court of the State upheld the denial of the lower court. An officer of the law is, therefore, denied the right of trial by jury for an offense against a prohibition law, but is allowed and granted that right in any other contingency. The ouster law assumes that every suspect is guilty, while all other criminal laws of the State assume that he is innocent until convicted.

In construing the ouster law, the Tennessee courts have entered new fields and given new meaning to the "duties of law officers." Sheriff Riechman of Shelby county was cited to show cause why he should not be removed from office for failure to enforce the prohibition law. The lower court held that there was nothing in the evidence to show that this sheriff had been derelict of duty and decided the case in his favor. But, for the first time in history, so far as records show, the State appealed from this decision—an appeal by the State from a decision in a criminal case! The supreme court reversed the lower court and removed Riechman from office.

In deciding this case, the Supreme Court, with three special judges on the bench in the place of some regular judges who were sick, laid down another new doctrine in Tennessee jurisprudence. The court held that it was the duty of a sheriff to raid any place where he had reason to suspect that liquor was being stored for sale and to arrest the owner or occupant of such place without a warrant. He must move upon the strength of suspicion alone. Furthermore, if private citizens "suspect" that liquor is stored, or being sold, in violation of law, in any place, it becomes the duty of the sheriff to invade that place without a warrant, seize whatever liquor he may

find and arrest the occupant. The duty of a sheriff had not been held to go that far in Tennessee before. And if the sheriff does not discharge his duty as thus laid down he may be ousted from office. Sheriff Riechman was, therefore, ousted because he did not raid places in Memphis that were "suspected" of carrying on an illicit liquor traffic.

Carrying this decision to its logical conclusion, a sheriff can be deprived of his office in Tennessee if he fails to raid every business house or private residence that may be "suspected" by prohibition agitators and paid spotters in the employ of the Anti-Saloon League. The home has been stripped of its previous constitutional rights. It is no longer a castle in which its owner may feel safe from search and seizure.

The ouster law is regarded by thoughtful people in Tennessee as the abolition of magna cart, in that it puts judicial dictum above constitutional rights and nullifies decisions of the people at the ballot-box. While the ouster case against Mayor Crump of Memphis was pending the people of that city elected him to a third term as mayor. The courts held that he could not serve in the office of mayor again because he had been ousted under the law. Thus, the courts nullified the rights of the people to choose their officials at the ballot-box. To show their contempt for the whole business, the people of Shelby county at the August election elected Crump to the office of county trustee, an office that the ouster law does not reach. The office of mayor of Memphis paid him \$300 a month. The office of county trustee is worth \$40,000 a year. This incident is related to show the deep resentment, and the contempt, in which ouster laws are held in those communities of Tennessee that oppose prohibition. And if those communities were removed from the State there would not be enough left to compose a respectable Central American republic.

A writer could extend this review indefinitely, for the records of Southern Prohibition States are full of the quandries in which the State finds itself in its efforts to enforce monstrous laws. Enough has been cited already to show the general drift of legislation and court proceedings in that prohibition territory. To say that these revolutionary laws and surprising court opinions have improved

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conditions anywhere in the prohibition South, would be to bring down the ridicule of every open, unbiased mind. Instead of improving conditions, the South is worse off, morally, spiritually and materially.

ALCOHOL AND CRIME

By Robert Blackwood
(In *The Forum*, August, 1916)

That the use of alcoholic beverages is the chief cause of crime is an assertion constantly made by the advocates of prohibitory laws. The percentage of crimes alleged to be due to this cause is variously stated as from seventy to ninety per cent, but all prohibitionists agree that liquor-drinking is the principal source of crime. So persistent have been their statements to this effect that their iteration and reiteration have created a widespread and deep-rooted belief in their truth. The general public, seeing these assertions made without contradiction, has accepted them as a matter of course, so that the average citizen, if asked whether he thought that drink is largely responsible for our criminals, would unhesitatingly answer in the affirmative. If pressed for the basis for his opinion, the usual answer would be: "Why, everybody knows that the use of liquor is the cause of crime."

The origin for this popular belief concerning the relation of drinking to crime is to be found in the natural desire of the criminal to avoid responsibility for his wrongful acts. The man of weak will or crooked tendencies, who violates the laws that society has made for its protection, hopes to create sympathy by saying, "I was not to blame; drink weakened my will and led me to commit this crime." When it was found that credulous juries and judges were inclined to look upon a criminal's drinking habits as a reason for leniency, the plea became highly popular, so that in course of time it became the customary thing for a prisoner to say: "I was drunk," or "drink made me a criminal." Al Jennings, the Oklahoma train robber, relates in his autobiography that his fellow prisoners always told the warden or visitors that liquor was the cause of their going wrong, but that in private conversation with him they would admit that this was only a "gag" to enlist sympathy, and help to get them out of jail sooner.

CONFUSING CAUSE WITH COINCIDENT

A second reason why the use of liquor is popularly associated with crime is the indisputable fact that many men who commit crimes drink liquors. The simple statement of fact that eighty per cent of all the adult males use some kind of alcoholic beverages, shows that according to the law of averages a large percentage of criminals must be drinkers. But there is absolutely nothing to establish a connection between their drinking habits and their criminal traits. The mere fact that a criminal drinks does not prove that drinking made him a criminal. The notion that it does arises from the careless habit of thinking that because a certain fact is coexistent with a certain condition, the fact is the cause of the condition. The same loose reasoning applied to other facts yields some startling conclusions. For instance—the most of criminals are white—therefore a white skin causes crime. Absurd, of course, and yet if the mere fact that criminals drink is to be deemed proof that drinking made them criminals, by a parity of reasoning, their pigmentation is equally responsible for the criminal tendencies of white men.

The report of the New York State Commission of Prisons for the year 1914 (Page 557) shows that of the total number of persons admitted to the various prisons during that year, 99 per cent had received religious instruction in their youth. What would be thought of an unbeliever in religion who should claim that religious training is the cause of crime? Yet there are the facts. Ninety-nine per cent of New York State's criminals received religious instruction. According to prohibition logic this instruction made them criminals.

To take another illustration: the same report shows that of all admissions to prisons in New York State in the year 1914 more than ninety per cent could read and write. Will any one pretend that the capacity to read and write made them criminals? To even suggest such an explanation makes it ridiculous. Yet it is exactly on a par with the prohibitionist claim that because some criminals drink, liquor makes criminals.

WHY ARE NOT ALL DRINKERS CRIMINALS?

Convincing proof that liquor-drinking does not cause crime is found in the statistics relating to the number of persons who drink, and the number of criminals. As stated above, at least eighty per cent of the adult male population of New York State uses liquor. There are nearly 3,000,000 adults in that State, of whom 2,400,000 drink. The report of the State Commission of Prisons (Page 554) for 1914, gives the number of males sentenced to imprisonment after conviction during that year as 19,293, or less than ONE per cent. Two million four hundred thousand men drink. Of these less than one per cent commit crimes. If liquor makes criminals of the one per cent, why does it not have the same effect on the ninety-nine per cent? Or to put it another way: if the use of liquor causes one per cent of the drinkers to become criminals, does it keep the ninety-nine per cent virtuous? How can drink be held to be the cause of crime, if it affects less than one per cent of the men who use it?

WEAK WILLS AND STRONG DRINK

The prohibitionist reply to the figures above quoted is that liquor only makes criminals of people with weak wills, and that this is the reason why such a small percentage of the liquor users are criminals. If this is true, does it not show that it is the lack of moral character, or of self-control, that leads both to excessive drinking, and to crime? That ninety-nine per cent of liquor drinkers are not criminals proves that it is the weak will of the one per cent that is responsible for their criminal acts. If drinking liquor was of itself the cause of crime, all drinkers should be criminals. When the prohibitionists say that liquor-drinking makes criminals only of the weak-willed, they admit that it is weakness of will that is the source of crime.

Even though it could be clearly shown that liquor-drinking is a factor in lessening self-control, this would not explain why a few people are injuriously affected, while ninety-nine per cent are not. It is a fair conclusion that if only one per cent of liquor users are

criminals, the origin of their criminal tendencies must be either some inherited physical or mental weakness, or the result of wrong training, or unfavorable environment.

THE PROBLEM OF CRIME

Through all the ages the question as to why men commit crimes has been studied and discussed, without reaching any positive conclusion. The theological explanation was that crime is the work of the devil; that man, originally virtuous, was tempted and fell; and that sin and crime are the result of the fall of Adam. Without entering into the realm of theology, it is sufficient to point out that this explanation fails to show why, if in Adam all men sinned, all men are not criminals. It is true that all men are sinners, in that they do not always live up to the moral law, but the fact that the great majority of mankind do not commit crimes, proves that natural depravity is not the cause of crime.

In recent years, the consensus of opinion among criminologists is that the chief causes of crime are: defective mentality; inherited weakness of will; malnutrition (insufficient or improper feeding in childhood); lack of proper moral training in youth; unwise selection by parents of unsuitable trades or vocations; and very largely, to poverty. To what extent these various causes influence character, particularly in the formative period, is difficult to determine, but it is the opinion of many students of the problem that poverty, and the evils arising out of it, such as over-work, too long hours, child labor, crowded tenements and other unsanitary housing conditions, are largely responsible.

In the poem "The Northern Farmer," Tennyson says:

"'Tisn't them as has money as
Breaks into houses and steals,
'Tisn't them as has coats to their backs
And takes their regular meals."

This homely philosophy is another way of stating the conclusion of Solomon: "The destruction of the poor is their poverty." The fact that the great majority of all the criminals come from

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the poorer classes, and in most cases from the very poor, indicates that this cause is the chief factor in creating criminals.

SERIOUS CRIMES HAVE NO RELATION TO USE OF ALCOHOL

The claim that liquor drinking is the cause of seventy or ninety per cent of crime is clearly disproved by a brief examination of the more serious offenses against the laws: There are no complete statistics on this subject for the whole country, but those of New York State, with 10,000,000 population, may be regarded as fairly representative. The report of the State Commissioner of Prisons for 1914, pages 494-496, gives the following record of admissions to all the state prisons for that year:

Total number of prisoners admitted, 3,368.

Males, 3,327; females, 41.

Convicted of abandonment	24
" " abduction	32
" " arson	47
" " bigamy	25
" " burglary (various degrees).....	780
" " carrying concealed and dangerous weapons..	127
" " extortion	23
" " forgery	106
" " grand larceny (various degrees).....	658
" " receiving stolen property.....	100
" " robbery (various degrees).....	318

These offenses constitute nearly seventy per cent of the total number. It will not be seriously pretended that any considerable proportion of them are due to the use of liquor or committed while under the influence of liquor. Men do not engage in burglary while drunk. It is impossible to conceive of men planning to commit forgery or grand larceny while intoxicated. Drink has no relation to the carrying of concealed weapons, nor is it responsible for receivers of stolen property. If robbers get drunk before starting out in search of a victim the fact is unknown to the police. Pickpockets do not work under the inspiration of liquor. It is highly doubtful that men are guilty of bigamy because of Dutch courage given by drink. So that of this large percentage of all serious crimes pun-

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ished with state prison sentences, there is nothing to show that drink was in any way their cause, but on the contrary, the nature of the offenses show that it had no connection with them.

Another important fact bearing on this question is found in the report of the Secretary of State for New York on "Statistics of Crime" for 1914, which gives detailed records of 9,088 convictions for criminal offenses in that year. Of this number the records show that 8,351 convicts were of temperate habits; 707 intemperate, and 30 "unknown." The percentage of intemperate was only 7.77; instead of the alleged 70-90 per cent.

PROHIBITION DOES NOT DIMINISH CRIME

As a remedy for the crimes alleged to be due to the use of liquor, the prohibitionists advocate the enactment of laws forbidding the sale, or manufacture for sale, of all kinds of alcoholic beverages. "Pass prohibitory laws," they say, "and crime, wickedness and evil will be greatly diminished, if not altogether abolished." In support of this claim, they give what purport to be statistics showing that prohibition has decreased crime in the states that have tried it.

Unfortunately for the prohibitionists, the reports from the various States—wet and dry—do not support their claims. Thus the United States Census Bureau reports that Maine, which has had prohibition for sixty years, has an average of 98.3 sentenced prisoners per 100,000 population. Wisconsin, a wet state, has only 71.8. Kansas, prohibition for forty years, has 91.1 prisoners per 100,000. Nebraska, a neighboring wet State, with almost the same soil, climate, and character of population, has only 55.1. North Dakota, dry for twenty-five years, has 63.6 prisoners per 100,000. The sister State of South Dakota, wet, has only 47.8. Georgia, prohibition for eight years, has 191.4 prisoners per 100,000. New York State, said to be the wettest in the Union, has only 137.3. These figures show conclusively that prohibition does not diminish crime, and discredit the assertions to the contrary by the prohibition propaganda.

A comparison of the rates of crime in various wet and dry States at different periods, shows that in some States crime has

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materially increased under prohibition. The following figures are taken from the latest U. S. Census reports:

			Per 100,000 population.
Sentenced prisoners in	Maine	in 1904.....	70.0
"	"	in 1910.....	98.3
"	"	Georgia in 1904.....	91.5
"	"	Georgia in 1910.....	191.4
"	"	N. Dakota in 1904.....	54.6
"	"	N. Dakota in 1910.....	63.6

The number of prisoners increased in Maine 40 per cent; in Georgia more than 100 per cent; in North Dakota nearly 20 per cent. If prohibition decreases crime, why was there an increase of crime in these prohibition States?

During the same period 1904-1910, there was a material decrease in crime in various license States. The census reports show:

			Per 100,000 population.
Sentenced prisoners in	California	in 1904.....	210
"	"	California in 1910.....	174.8
"	"	S. Dakota in 1904.....	57.9
"	"	S. Dakota in 1910.....	47.8
"	"	New Jersey in 1904.....	131.9
"	"	New Jersey in 1910.....	117.7

The number of prisoners in California decreased almost 18 per cent; in South Dakota 17 per cent; and in New Jersey 12 per cent.

No sensible person claims that liquor-drinking diminished crime in these wet States, yet it would be just as reasonable as the assertion that prohibition decreases crime in the dry States. Two facts are clearly established by these statistics: that the use of liquor is not a material factor in the causation of crime, and that prohibition would not in any degree lessen the number of criminal acts.

THE FUTILITY OF PROHIBITION

By Hugh F. Fox

(An Address delivered at the Forum of the Free Synagogue, New York, January 9th, 1916.)

In the Meditations of Marcus Aurelius we read: "No man can live and be ever held erect by others; he must stand erect by himself." And it seems to me that is a fairly good text with which to begin the discussion of the question of prohibition.

In that great book of Lecky's, "Democracy and Liberty," in which he deals, from a governmental standpoint, with some of the fundamentals we are going to consider to-night, he makes the statement that "the attempt to guard adult man by law is a bad education for the battle of life," and against that or with it, I want to cite a sentence from Elihu Root's book on "The Citizen's Part in Government," in which he says: "The base of all popular government is individual self-control."

I think you will all agree with me that responsibility, personal responsibility and the responsibility of the people, is the thing that marks race progress. I do not believe that you can make men moral by law any more than you can make men successful by law. Now, this subject to-night is so great, it has so many sides, that I shall have to deal with it from only one or two standpoints, and perhaps it may be useful to clear the way a little by seeing if we cannot reach certain points of agreement.

First of all, I think you will all agree that this generation is more temperate, more sober, than any other generation of which we have any record, and that even within the last decade, progress has been made in moderation, in sanitation and personal cleanliness. Then, I suppose you will agree with me that most adults do either habitually or occasionally drink alcoholic beverages. I do not believe that it would be possible for any man, coming as a stranger to this or any other audience, to look them over and pick out, from their personal appearance, or from any peculiarities that they might have,

the total abstainers from those who use alcohol, and I think it follows that the large majority, in fact nearly all of the people who use alcohol, and who do not abuse it, behave themselves about as well and act about the same as the average men and women do.

The Swedish Medical Society has recently published a most notable book by Dr. Quensel on "Alcohol and Society."

Dr. Quensel says that the use of alcohol is almost universal, and that the only peoples who are now alcohol-free, are a few remnants of the original population of Ceylon, Malacca, and some of the Indians of South America.

He cites the fact that alcohol is a substance formed in the human body, and one which is not therefore foreign to normal organism and its functions.

Next, the evils which spring from intemperance were never so well recognized as they are to-day. In fact, the measure of the evil is constantly exaggerated. I have here an extract from a notable address on "THE ELIMINATION OF THE UNFIT," which was delivered at the State Conference of Charities and Corrections, in New Jersey, at which President Wilson, then the Governor, presided, by Dr. Woods Hutchinson, the well-known medical sociologist. Dr. Hutchinson said: "The percentage of criminals in no instance runs above five in the thousand, and yet we are legislating against a mere half of one per cent, as if the whole stability of society were in danger unless we crush the criminal out of existence. The situation is one of exaggerated dread and fear. We are afraid of the criminal; we are afraid of the defective; we are afraid of insanity. We think that the race is in danger of going to all sorts of degenerative extremes if something radical isn't done to stop it. We talk about the rapid increase of insanity and the terrible strain in modern civilized life upon the brain and upon the nervous system. The real strain of modern civilized life is upon the lungs and upon the liver; not upon the nervous system. In no community has the percentage of the insane gone above three in the thousand, or about one-fifth of one per cent. The fear of the community about being overwhelmed by insanity has no logical basis. The number of feeble-minded in any community has probably never gone above one-fourth of one per cent.

"The number of drunkards—we hear that brought out as one of the besetting sins of the coming generation. In no instance where the matter has been gone into with any care (and I have made a wholesale study of that particular subject, myself, in two or three different communities with which I have been acquainted)—in no instance was the percentage of drunkenness more than about two per cent and in most cases less than one per cent of adult males who were in the habit of using liquor."

Just a word here about this matter of insanity, to which Dr. Hutchinson refers. I suppose there is no race of which we have any record which has maintained its race purity and its race integrity as has the Jew. For five thousand years, I believe, there are records of the use—not the abuse,—but the use of alcohol among the Jews. They are known as a temperate rather than an abstemious race. Now, the records of the insane asylums in the United States show that alcohol insanity, inebriety, as it is called, among the Jews is practically unknown. It seems to me there is something rather significant about that. By the way, the 41st Annual Report of The United Hebrew Charities of New York, just published, has a table showing causes of distress among the 9,274 applicants for aid from October 1, 1914, to September 30, 1915. Only 12 cases of intemperance are noted.

And just another example:—Whatever our sympathies may be with regard to this war, I think we must all agree on this point at least, that for the past eighteen months the German nation has shown its efficiency in a superlative degree. The German nation is so much addicted to the use of beer, that it has been found necessary for the German Government to make official provision for it in the rations. The German brewers are required to supply the beer; one-third of their output has to be sent to the army. I am not saying that the efficiency and the success of the German army is due to the use of beer, but certainly it does not seem to have done them any harm.

But of course we are all agreed that drunkenness is a very great evil. There is no belittling it, but it is an evil which is, to some extent, curable, and to some extent can be prevented. It is a very great social problem, and I take it that the practical question for us

to consider to-night is what can be accomplished by the strict regulation and the social control of the liquor business, and whether prohibition is worth considering as a practical remedy.

First, let us consider for a minute what prohibition is, and what the prohibitionists hope to accomplish by it. None of the prohibitory laws goes so far as to prevent the individual from either buying or drinking alcoholic beverages if he can get them; though, by indirection, this is the intention. No legislative system has been more extensively or more fairly tested than that of prohibition. During the last 60 years it has been tried in a number of different States, and under the most diverse social and political conditions. I ask you if it is not fair to judge it by what it has done, and what it has not done? Fifteen of the States, which originally enacted prohibitory laws have abandoned them, though there are to-day some 19 States in which the system prevails, including the group of States that have just gone "dry." Several of these States have been made "dry" by legislative enactment, without giving the people an opportunity to vote on the question. Without exception all of the prohibition States are agricultural communities—only 27 per cent of their population being urban, and they have outlawed the drink traffic by the rural vote, which holds the balance of power. The large cities invariably reject prohibition. The prohibition system has not abolished the liquor traffic in any State, and whatever good it has accomplished has been in the rural districts, which, however, had already been made "dry" under local option laws. But I am not going to tell you just as a matter of personal opinion what it has accomplished, I am going to give you some authoritative statements.

For instance, Mr. Royal E. Cabell, former Commissioner of Internal Revenue, says:

"Prohibition forces the business of manufacture and sale of liquor from the hands of responsible persons into the hands of irresponsible persons, the baser and lower portion of the population, with the result that the vilest kind of liquor and liquor substitutes are manufactured and sold illegally, resulting in hypocrisy, increased crime, social disorder and corruption; that the use of habit-forming drugs is promoted and increased, and that instead of social and moral

improvement in such States there is indicated an actual impairment of the social fabric."

Prohibition has wiped out the reforms which were accomplished under the plan of local option, and has nullified the good effects of regulation wherever it existed. In the larger cities, the liquor trade which had previously been subject to constant public scrutiny has been driven into secret channels, and the law has been very generally defied, simply because it is not sustained by public sentiment. It has, however, had the effect of bringing about the substitution of spirits for beer, because beer is too bulky to be concealed, and also because the freight on beer is so high that it cannot be shipped in small lots to the individual consumer. With the development of prohibition has grown up an enormous mail-order traffic in inferior spirits. The Inter-State Commerce Commission, in its report of four years ago, stated that "the spread of the prohibition movement gave vitality to this traffic. Its volume to consumers, and not to dealers, is in excess of twenty million gallons a year." This, I think, would represent 12 to 15 per cent of all the whiskey business of the country and does not take into account the enormous amount handled in "dry" States through illicit dealers.

I want also to give you a citation from the present Commissioner of Internal Revenue, W. H. Osborn. His report has just been published, and very remarkable it is. The Commissioner says:

"During the past fiscal year there were unearthed, seized and destroyed, 3,832 illicit distilleries, which was an increase of nearly 1,200 over the previous year."

The Internal Revenue *Review*, which is the official organ of the Internal Revenue service, says:

"Nobody has the remotest idea how many were not unearthed. The present Commissioner started in determined to break up the practice, and notwithstanding the vigilance and diligence with which he is enforcing the law, he but scars the surface."

By the way, the illegitimate distilleries, moonshine establishments, broken up during the last year numbered four and one-half times the legitimate distilleries—the licensed distilleries—throughout the United States. As an illustration of how well organized and bold the illegal whiskey vendors have become, the Government recently

sold in Kansas City, Missouri, 40,000 gallons of whiskey, captured in an illicit "still" at Fort Smith, Arkansas. This whiskey had not been allowed to age, and consequently was stronger than most whiskey placed on the market.

Nevertheless, the Government had to sell it. The purchasers were wholesale liquor dealers from Joplin and Kansas City, Missouri, and most of this "moonshine" whiskey sold by the Government of the United States was undoubtedly sold again in the prohibition States of Oklahoma and Kansas. In other words, it practically went to the "boot-legging" trade. The Commissioner adds:

"Many reports are received in this Bureau from the law-abiding element throughout the country, reciting conditions as to illegal sales of liquors in the various localities by boot-leggers, and asking this Bureau to assist them in stamping out the conditions complained of. These conditions are largely brought about by failure of local officers to enforce the provisions of the State laws governing the manufacture and sale of liquor."

One of the results of this increase in prohibition territory has been the development of an enormous mail order business, a mail order business which covers the orders received from individuals who, under our laws, are allowed to purchase in other States and have their liquor conveyed to them, sometimes in specified quantities, over inter-State lines.

The "moonshining" has been developed, of course, under prohibition. Twenty years ago "moonshining" was a sort of sporadic affair between neighbors. The mountaineer who had a little corn patch, made a little whiskey for his own use, and swapped it with his neighbor. Under the spread of prohibition it is becoming, in fact, I think it has become, a highly organized traffic. It offers an opportunity to a lot of reckless individuals to supply it, sometimes with the connivance of officials, and sometimes without it—an opportunity to build up quite a thrifty and profitable business.

I will ask you to note this, that the "moonshining," to the extent to which it has been stopped at all, has been stopped by the action of Federal agents. I do not recall a single case of the authorities in any State having done anything at all to put down this "moonshine" business. Even the revenue agents of the Federal Government do

not, as a rule, go around looking for trouble. I do not suppose that they really catch more than a small percentage of the men who are engaged in "moonshining." Now, then, suppose we had National Prohibition, whose job would it be to enforce it? The Federal Government would have no further interest in the matter, because there would be no revenue from it. The licensed trades would cease to exist, and therefore would not operate as a restraining influence. Of course it is now a restraining influence, for wherever there is a licensed trade it is a matter of business to the men engaged in it to see that they do not have to meet the unfair business methods of the man who does not pay any tax. So the enforcement of the law would be left to State and local officials, and in the most important places it would be left to unfriendly officials who are acting under a law which does not have the acquiescence of a majority of the people of those communities.

Even if the Federal Government could consistently usurp the police power of the States and the communities, I wonder if the problem would not be too staggering for the Federal Government itself to grapple with. First of all, the entire frontier along the Canadian border and the Mexican border would have to be patrolled. Then you would have to prevent smuggling all up and down the Atlantic and Pacific coasts and along the Gulf of Mexico. Then you would have to deal with this illicit traffic, which would, of course, spring up at thousands of points.

One of the officials of the Federal Secret Service Department told a friend of mine the other day that, in his opinion, it would cost more for the Federal Government to enforce National Prohibition than it now costs to maintain our entire army and navy. That is the opinion of a man experienced in dealing with police problems.

It is not generally known that anybody who has intelligence enough to bake bread can make whiskey. It is a very inexpensive affair; a still can be outfitted for a few dollars. In some countries, home distilling has assumed enormous proportions. We can learn a good deal on this question from the experience of European countries. For instance, at one time home distilling was commonly practiced in Sweden, and finally, in 1885, it had to be abolished by the Government, because of the wholesale drunkenness of the people.

I do not suppose that there ever was so much drunkenness as existed in Sweden at the time that home distilling was commonly practiced.

When they abolished the home still or private distilling in Sweden, they adopted what is commonly known as the Gothenburg system, which is more or less in vogue now throughout all Scandinavia. There are various applications and modifications of it, but, in a general way, it provides for governmental control of the whole business of making and selling spirits, and with it has developed a system of encouragement, by tax discrimination and otherwise, of the use of mild beverages. At the present time, for instance, they have a system of taxation which is based on the percentage of alcohol. Beverages which contain less than two and one-quarter per cent of alcohol are declared to be non-injurious to the individual or society, and are tax free. A beverage which contains from three to six per cent of alcohol is declared to be not injurious to society, but may possibly be injurious to the individual. That is taxed lightly. And then the tax rises in the scale so that by the incidence of taxation the beverages containing the most alcohol are so heavily taxed that they become a luxury. By the way, this system in Sweden has resulted, in the course of the last thirty years, in reducing the per capita consumption of spirits about one-half. They did not attempt, even there, you will notice, a complete prohibition; they felt that that would be impracticable. They arrive at the results which they are seeking by this other method.

The Norwegians have been also studying this question for several years, under a government commission, which was headed by Dr. Axel Holst. The Chairman reports that "prohibition is likely to increase home distillation, and greatly stimulate the illicit traffic." He cites the opinions of police officials of practically every place of importance in Norway, all of whom agree that total prohibition cannot be enforced. And then Dr. Holst goes on to recite the result of their personal investigation of American conditions, which "has persuaded the members of the Norwegian Commission that American examples of prohibition ought not to be imitated." Various other commissions have had the same experience. They have visited this country from Canada and New Zealand. Some of the tem-

perance leaders in England, and a representative of the Russian Minister of Finance also visited this country to study our conditions and their conclusions have all been the same.

There is one aspect of this proposed National Prohibition which does not relate itself particularly to the liquor question, but it seems to me to involve a very serious problem in government. You are probably familiar with the method of amending our Federal Constitution—I understand you have discussed that here in your Forum. Now, if Congress should adopt this amendment and put it up to the legislatures of the different States, then what would happen? In the first place, note that the people themselves do not vote on the question; it is determined by the action of the various legislatures. In the next place, if a particular State, through the action of its legislature votes for the adoption of National Prohibition, the prohibitionists stick a pin in that State, and it is settled for good and all; it cannot reverse itself. If, however, it votes against it, it can keep on voting for a hundred years.

Then note, in the next place, that in most States the rural communities absolutely control the Legislature—in fact, in most of them. I lived for a number of years in the State of New Jersey, and we have one little county Ocean County, which has a summer population of about 15,000 people, and in the Senate of the State, Ocean County has as large a representation as has Essex or Hudson County, with half a million population each.

The twelve great urban States, the great manufacturing States, have about 45 per cent of the population, and in the nineteen States which have voted for prohibition about one-third of the people are opposed to it and have so recorded themselves, and I suppose the same would be true of other States. Thus it would be perfectly conceivable that National Prohibition might be adopted by the action of these various rural legislatures, representing one-third of the total population of the United States, and the other two-thirds of the population would be coerced by the action of the rural communities. It seems to me purely as a problem of government that is a pretty serious thing; but when you consider it in relation to law enforcement it is still more serious. We might have National Prohibi-

tion without even submitting the question to the legislatures of the twelve urban States.

In European countries, the temperance question is considered by statesmen and publicists, men of the very first rank. There is scarcely a country in Europe in which this question has not been taken up thoughtfully and seriously by men of the first intelligence with wide experience in government. In this country we have largely left the question to associations of extremists, such as the Anti-Saloon League, who, so far, have had no cry except "Destroy the Saloon!" And, by the way, the saloon problem is only one phase of this problem. There is a whole lot of difference between the alcohol problem and the saloon problem.

Some of the laws which they have had passed are perfectly ridiculous. For instance, the Arizona Law which has just been passed has been framed so as to make it practically impossible for anybody to obtain liquor in Arizona. For instance, it is illegal for any church to import any alcoholic liquor for sacramental purposes. The law prohibits the sale of anything containing alcohol for food or beverage. The other day the Attorney-General of the State was asked for an official opinion as to whether, under the Arizona law, it was legal to sell mince pie and plum pudding containing alcohol, and he had to declare it was not.

State after State has passed laws prohibiting the sale of any malt beverage. There are malt beverages which are alcohol-free, but for fear that the brewer might still manage to exist they have provided that he cannot even make a malt beverage which contains no alcohol at all. Yet in a good many of these States the manufacture and sale of cider is encouraged, probably because the farmers' vote is needed. There is a great deal of cider manufactured in Maine and shipped down into Georgia, and of course the patent medicine business has assumed enormous proportions.

There is a distinction which must be made between the problem of intemperance and the saloon problem. The best known economists and social students are agreed that intemperance is both cause and effect. It is bound up with matters of housing, sanitation, wages, cooking, industrial conditions, sickness and a score of other considerations. Temperance is self-imposed and self-enforced. It

implies control of yourself; prohibition has to do with some other man's control of you. If the logic of prohibition is reasonable it would be proper to prohibit the use of money, and even to prohibit free speech, because both of these sometimes lead to evil results. When God gave man reason he gave him liberty of choice. I do not believe you can develop moral force without the exercise of personal liberty. I do not believe you can have life in the fullest sense without such liberty. The whole theory of prohibition is opposed to the principle of individual liberty, and is based upon the absence of self-control. There is nothing in the teaching of the Scriptures that prescribes prohibition; the warning is against excess. The Bible does not say that the love of wine is the chiefest of sins, but it does say that the love of money is the root of all evil. Thrift carried to excess makes the miser; generosity carried to excess produces the prodigal; the excess of covetousness is theft; the whole theory of the common law in its application to wrong has been that of gentle restraint, with the imposition of punishment only upon abuse and excess.

The prohibitionists will tell you that if prohibition does not prohibit, neither do the criminal laws prevent crime. This is a case for a little bit of clear thinking. We are all agreed that murder and burglary are crimes—even the burglars and the thieves admit it. There is no sentiment against the enforcement of such laws. But a law which governs our personal habits can only be sustained by an overwhelming public sentiment. I do not suppose five men in a million would condone murder, for example, but there are thousands of men who perjure themselves in prohibition territory every day to buy a drink at the drug store.

The saloon problem is one which would take a whole evening to discuss, but I want to say just this, that the attitude of the trade itself, the whole liquor trade, with regard to the saloon, has undergone a very remarkable and fundamental change in the last five or ten years, even amongst the retailers. There is a general consensus of opinion to-day that the saloon must be made a decent, respectable and law-abiding institution. The trade is working to that end. In some places really remarkable results have been achieved. In the State of Ohio, for instance, the trade organized a Vigilance Bu-

reau, put \$50,000 into it and hired detectives to investigate violations. After they had accumulated their data they then started to take action, and they found that they ran into a whole nest of political and official corruption. The brewers had to get the evidence and sometimes force the authorities to act, but they succeeded in putting about 500 places out of business. Something of the same thing has been going on here in New York in the operations of the Committee of Fourteen. You know, perhaps, about the Raines Law hotels, and what an abominable situation was created by the enactment of that law. It took 80 brewing corporations, 11 bonding companies and the retail trade and the Committee of Fourteen combined to grapple with the Raines Law hotels and to put the worst offenders out of business. Now, that sort of work is going on quietly all the time.

The City of Newark has taken up recently the same thing. The progress is slow—it is not fast enough to suit those of us who are directly interested. The problem is partially an educational problem. In England the ablest men have dealt with it constructively in this way: They concluded that the best thing to do was to make a demonstration of the kind of a place the Public House ought to be. So they organized what is known as the Public House Trust. They put considerable capital in it. They are not trying to make a profit of over five per cent. They have bought up several hundred taverns or public houses throughout England, and have converted them into family resorts, where the workman and his family can go and get good food, at reasonable prices, and find amusement and recreation. These are places in which the sale of malted beverages will be encouraged, so far as the sale of alcoholic beverages at all is encouraged; but places in which the emphasis will not be laid on the sale of such beverages at all. A man can go in and get tea or coffee and something to eat. The cost is made very moderate. In fact, they act as general victuallers.

One of the serious problems in a State like New York is this: There are some 24,000 saloons in the State, and the State and municipalities get a revenue of twenty million dollars a year out of the licensees. We have, as you know, no home rule. The City of New York has no Licensing Commission, has nothing to say

as to who shall have a license and who shall not. The whole thing is run by the State Excise Commissioner, whose principal concern is with the revenue. You can imagine how great a problem it would be for the State of New York to have to give up any portion of that twenty million dollars for the purpose of improving saloon conditions. It is the sort of thing that needs an overwhelming public sentiment back of it to accomplish anything. The trade cannot lift itself by its own bootstraps. It must have the thoughtful consideration and support of all citizens.

I have gone my full limit and will close with a paragraph from a pastoral letter, issued a short time ago by one of the ablest and noblest men in the Protestant Episcopal Church in this country, Bishop Lines, of Newark, N. J., addressed to his clergy. In it he says:

"Legislation which is unfair, which cannot be enforced, or which is sure to produce reaction, is unwise. It is not strange that people who have suffered in one or another way from the abuse of strong drink, or have seen its ill effects, should feel strongly and be ready to do that which promises restriction of abuse. But men are needed who are at once temperate in speech, thoughtful, wise and right-minded, to guide public opinion and to influence legislation. Temperance, like religion, has a great deal to fear from its friends."

(At the conclusion of the address several members of the Forum took advantage of the opportunity, which in compliance with custom was accorded to them, of questioning and receiving answers from the speaker.)

Question:—Can the speaker tell us of any place that has a model law on this liquor question, either in this country or abroad, or any way that tackles this problem in a thoughtful, systematic, comprehensive and successful way?

Mr. Fox:—That is a very fair question and a very big one, sir. From the standpoint of the saloon, I think probably the Massachusetts and the Pennsylvania laws are the best.

In Massachusetts the State stipulates what the percentage of licenses shall be to population. Then, the granting of those licenses

is left to the discretion of a Board of Licensing Commissioners, and each community votes on the question every year, and I do not know of any State in which the law is better observed, so far as closing hours and all that sort of thing go, than in Massachusetts. In the opinion, however, of some of the critics, the weakest point of the Massachusetts system is that the communities do vote on it every year. It is felt it would be better if they would vote only every two or three years, and that in the second place, a bare majority should not determine the matter. In Canada it requires sixty per cent of the vote to turn the question one way or the other. If a city goes "dry," for instance, and 51 per cent of the population vote "wet" at the next election, that is not sufficient to change it. In New Zealand also it takes sixty per cent.

In Pennsylvania the licensing is in the hands of licensing judges, and those judges practically conduct an open court civil service examination for all applicants for licenses every year. When a man comes up for the renewal of his license, the police record is before the licensing judge. Any remonstrant has the right to appear; anybody who has anything to say as to why he should not have a license has his day in court. The man has got to satisfy the judge that his character is all right, that he is a citizen, that he has conducted a decent place, and that his place is really needed as a matter of public convenience.

The objection to the Pennsylvania system—I won't say that it is an objection—but the criticism is that it does bring the judiciary itself more or less into politics, and there is a question among lawyers as to whether it is not a mistake to make the judiciary an administrative department of the Government.

Now, with regard to the alcohol problem, I believe that the Scandinavian system is the one which will eventually be adopted, and I believe, after this war is over, and the reconstructive period sets in, there will probably be an International Commission on this alcohol question, which will take up the subject along the lines of the Scandinavian system with regard to the problem of alcohol, and of the British public-house trust system with regard to the operation of the places where alcohol is sold.

Question:—Since the European War was started, the Russian

Government has introduced liquor prohibition in Russia, and, as far as I know, the Russian Government has succeeded in prohibition. What can the speaker tell us about this?

Mr. Fox:—I do not suppose any of us know more than a part of the facts. The testimony I get comes from these sources: first of all, from men like Mr. George Kennan, who is undoubtedly an authority on Russian affairs, but who has not been in Russia for some time; secondly, from the translation by a young Russian journalist, of everything that has been written on the subject in the principal Russian papers, up to two months ago. The reports that have been received have come, to some extent, from public officials, and the consensus of that testimony is that the prohibition of the sale of vodka has operated fairly well in the rural districts, but is breaking down more or less in the cities. In the large cities there have been literally thousands of cases of men who have gone to the hospitals, and a great many of them have been made blind, and quite a number of deaths have occurred from the consumption of wood alcohol and from drinks made from varnish, shellac, and stuff of that sort. The general impression one gets is that the Russians themselves do not feel that the problem is settled by any means, and that they have got to do a good deal more constructive work after the war is over.

I have referred to the prohibition of the sale of vodka. In the local communities, which I suppose would correspond to our villages and towns, they have a system of local option with regard to everything except vodka, and in a great many of those places the sale of the milder beverages has been permitted; but a great deal will have to be done in Russia to develop facilities for the transportation and for the cheapening of mild beverages if they are going to be a real substitute for vodka.

Question:—In the event that all saloons were closed and the revenue therefrom was lost, how would the State make it up in other taxes?

Mr. Fox:—The Federal Government is getting about \$250,000,000 alone out of the business. The revenue which is being received by the States and municipalities can only be estimated, but it is not far from \$100,000,000 additional.

Now, if the preparedness program of the administration is carried through, we shall have another \$250,000,000 of expenses to meet. If, at the same time, we were to have National Prohibition, there would be \$500,000,000 to be raised. How much of it could be raised from imports nobody knows. The loss of the revenue on liquor alone, as far as we can see, would probably necessitate quadrupling the income tax and imposing it on anybody who had an income of over a thousand dollars a year. That is a question which you will find the prohibitionist simply refuses to face. They simply take the ground that if this is a moral issue, as they claim it is, and not an economic question, that will take care of itself; that this country is big enough and rich enough to do anything that is necessary, and that it is not up to them.

I think it is an unfortunate thing that, under this system of high licenses which now prevails, the municipalities and States are so dependent upon the revenue from the liquor business, because it is going to be a great stumbling block in the necessary reforms. I believe there are some communities in this country which would be benefited if half of the saloons were wiped out. As a matter of general principle, saloons should not be licensed, except as a matter of manifest public convenience. Whenever you have a locality in which there is a saloon located and you add one or two or more saloons, you are not increasing the thirst of that locality, you will probably not increase the demand for what they sell, and the result is that one of those men is possibly going to do something new and possibly objectionable, in the development of his business, in order to catch a different class of trade.

Question:—I was going to simply criticize your criticism about the minority question. As you know, in a great many cases the minority controls; we have had several presidents who have been elected by the minority; we have one now. So the liquor question should not be charged with that, unless you charge the Federal Constitution with being an ill-drawn document, which it probably is. The point I want to make is about the number of corporations which are now putting this prohibition on their men drinking at all, particularly in view of the Workmen's Compensation Acts that are being passed. What bearing has that?

Mr. Fox:—In regard to your criticism, I think it has some point; but at the same time the question of the election of a president as a minority president does not involve the question of police problem or law enforcement.

My particular point is that in the enforcement of a law which governs the habits of people and does not relate itself specifically to the question of crime or moral issues, you have got to have the general acquiescence of the people to make the enforcement of the law possible. I think there is a case where a little clear thinking is required.

In regard to the industrial question you have raised, under the operation of these workmen's compensation laws, and with the development of the 8-hour system, the tendency among manufacturers has been to try to find some way, first of all to prevent accidents and, in the second place, to get the same amount of work out of the same number of men in eight hours that they formerly got out of them in nine or ten hours. That, of course, explains the speeding-up system. Now, every employer, I suppose, wants to get as physically competent and efficient men as he can. He is perfectly justified in any process of selection by which he can obtain them. If he thinks he can get better work out of albinos, and the unions do not object to that, why, let him employ all albinos. Of course, as a matter of common sense, he is going to insist on getting sober men, and even the labor unions agree that drunkenness is a proper cause for discharge.

A good many of the employers, it seems to me, particularly the large corporations, are going farther than they are fairly justified in going. I concede that an employer has a perfect right to make any proper rules for the conduct of his men during the time that he pays for, and he also has the right to insist that his men shall be physically fit, and that they shall turn up in good condition when they come to their work, but when he goes beyond that and tries to say what a man shall do or shall not do in his own time and in his own way, I think he is going too far, and that is what a good many employers are trying to do. Some of them are carrying it to the point of coercion. I know of a number of cases in which men have been discharged because they would not vote a town

"dry," or because they signed applications for licenses, and various other things of that sort.

We have not yet a large body of statistics in this country which cover conclusively this question of industrial accidents and industrial efficiency, but we are getting a good deal of data together, and an investigation has been recently made which covers everything of an official nature in regard to factory statistics, the railway statistics compiled by the Inter-State Commerce Commission, the industrial investigation made by the Federal Government, and such data as can be obtained from large employers. The substance of that testimony is, first of all, that alcohol is not a factor or is rather a negligible factor in industrial accidents. In railroad accidents it enters into the calculation as a factor in less than one per cent of the cases. In the industries, large employers are simply guessing at it. One of the investigators who went to the superintendents of the large iron and steel mills last month found that they did not have any figures themselves; it was purely an assumption.

In regard to industrial efficiency, that is clouded in doubt. The Anti-Saloon League made a statement in a hearing in Massachusetts a while back that more accidents occurred on Monday, and most accidents occurred in the early hours of Monday, because the men were still under the influence of a week-end spree. Now, in Massachusetts they have a lot of data on the subject, and the official reports show, first, that quite as many accidents occur on Tuesday and Wednesday as on Monday, and, in the second place, that most of the accidents occur between 11 and 12 o'clock in the morning and about 4 o'clock in the afternoon, when the men are under the influence of fatigue; that fatigue is the factor which is most determining. Then our opponents came back and said "Yes, but it takes two hours for the alcohol to get in its work." (Laughter.)

"THE STRUGGLE AGAINST ALCOHOLISM"

In 1907 Dr. L. Viaud and H. A. Vasnier published in Paris a book entitled "La Lutte Contre L'Alcolism" (The Struggle Against Alcoholism) which at once attracted wide attention, not only because of the reputation of the authors, but also for the ability displayed in their treatment of the subject. A preface contributed by Emile Cheysson, president of the National (French) League Against Alcohol, indorsed and emphasized the views expressed in the book. It is noteworthy that while the writers, who spoke from scientific knowledge and an intimate acquaintance with the social features of the problem, denounced absinthe and the distilled liquors, they had no condemnation for the rational employment of beer, light wine and the like, and even advocated their use as in the nature of "antidotes" for the stronger beverages. Some excerpts made at random from preface and body of book follow:

In the great drama of alcoholism the beverages known as hygienics play an important part and it is proper to recognize the character of their importance. Speaking generally, the title is applied to wine, cider, perry and beer, drinks fermented from domestic extracts, and to these should be added coffee and tea; beverages of foreign origin non-alcoholic and which therefore are one of the factors in the anti-alcoholic problem. The actual prevalence of domestic hygienic beverages started with the law of 1900 which went into effect on Jan. 1, 1901. Under it the government duties on fermented drinks were lowered. The local duties were reduced or altogether suppressed, and as a counter stroke an extra tax of 30 per cent was levied on alcohol. When this was enacted many of the hygienic reviews and medical journals raised a cry of indignation, not only because the privileges of private distillers were allowed to remain, but because the duty on wine, cider and perry had been reduced. Admittedly the law of Jan. 1, 1901, is not correct. In fixing the duty on alcohol at almost ten times its intrinsic value fraud is particularly encouraged, and is facilitated on the other hand by the existence of the privilege of the private stills which should have been abolished, but were not abolished but only regu-

lated later by financial law of 1903. As regards the decrease in the duty on hygienic beverages, we consider that it was wise and that it was very greatly beneficial. To preach to nearly 40,000,000 French people the theory of pure water, and to believe that they would listen, is an insane dream. It is even reasonable not to consider the consumption of wine, cider and beer as a necessary evil and without remedy, but to regard, moreover, the habit of wine-drinking as one of the antidotes of alcoholism.

When phylloxera ravaged the French vineyards, wine became scarce and the consumption of distilled liquors greatly increased. Rare and occasional intoxication became actual drunkenness. This was less on account of the consumption of fermented liquors than due to the use of brandy.

In the *Journal des Debats* of April, 1899, Monsieur E. Rostand published an extract from one of the letters of his correspondents which confirms in every respect this point of view:

"In our country they drink only domestic white wines. The phylloxera has come. Vines are destroyed. Some are replanted, but in waiting for the remote harvest they mix alcohol with water; little by little the dose is increased and then the peasants become victims of alcohol. The retailers even go in wagons around the country selling alcohol by the cask. They stop in villages and offer their detestable merchandise."

According to Doctors Busselet and Degrave, wine is one of the most efficacious weapons against alcoholism. According to Dr. Mascarel, Chief Physician for 40 years at the hospital of Chatellerault, the wine which nourished the shipwrecked people from the *Meduse* for 30 days was not a poison. The Director of the Pasteur Institute, M. Declaux, commenting on the experiences of Benedict and Atwater, has written that a healthy man can drink without any danger 75 centiliters (.076 quarts) of wine per day.

The most ardent defender of wine in France is without question Dr. Mauriac, who, at the Congress for the Advancement of Sciences held at Montauban in August, 1902, presented two communications on this subject. In the first he quoted the history of the Bordelaise temperance measures, and showed the good results obtained by the efforts of Dr. Lande and Messrs. Baysselance and Cazalet, creators of this establishment, in which wine was drunk as a means of combating alcoholism. In the second communication

THE UNITED STATES BREWERS' ASSOCIATION

in which is considered the fight against alcoholism by the encouragement of wine, Dr. Mauriac established that the best means of restricting the consumption of alcohol is to promote the use of wine, an inoffensive, agreeable and even valuable beverage which, although objected to by the more radical temperance advocates, is not instrumental in the promotion of alcoholism. Among the conclusions the doctor presented were the following:

To effectively fight alcohol there should be created in all the towns and communities of any importance stores and temperance restaurants where wine is sold.

Put to a vote after a long discussion, these conclusions were adopted by a strong majority. The members of the Congress present consequently avoided the satire applied to the members of the Anti-Alcohol Congress, held in Bremen in 1903. "To the ox it is water that gives strength. To man it is beer and the juice of the vine; therefore do not despise beer and wine if you do not wish to become an ox."

At a meeting of the Society for the Advancement of Sciences, held at Bordeaux in April, 1903, Prof. Arnozan stated that wine comprised all the properties of a real nutriment, and that from observations taken by him in hospitals, and investigations made by him in the Medoc and by Mr. Regis in the Charantes, it was found that the public health in these regions of wine is good; that madness and tuberculosis are by no means frequent, but that the latter disease is frequently encountered among the poor people who, while doing laborious work, drink water. And in Bordeaux, said these two authorities, much wine is drunk and there are but few alcoholics. Alcoholism is only progressing among the working class who drink spirits and not wine.

Passing through Brittany, Normandy and Picardy, you can find in any café or saloon that they do not consume wine, cider or beer. The custom at all times in these places is to drink coffee with brandy.

Brunon of Rouen, who is one of the most reliable specialists on the subject and one of the most competent apostles in the crusade of temperance, has written that cider no longer is found in the saloons of the village and towns, neither do the Normans drink it at home.

The same author, describing an investigation in regard to the workmen on the spinning wheels and in the weaving mills of Rouen,

observed that their first meal is represented by coffee and cognac, that the meal at 11 o'clock is composed of 25 centimes worth of food and 50 centimes worth of coffee and brandy. The evening meal, taken at home, is always followed by coffee mixed with brandy. The young working girl of 15 to 20 years has not escaped this common vice and Brunon records having seen young girls who stated that they could not take coffee straight, and preferred to be without it altogether rather than to be without the brandy. There are even nurses at Rouen who take daily 5 or 6 times coffee to which brandy is added. These sad customs are moreover not confined to Normandy. They are observed in Brittany and in Picardy.

To form an opinion of the great importance of these distillers (the household makers of spirits) in the dissemination of alcohol, it will suffice to recall that before their regulation in 1903 they furnished annually for consumption, according to government approximation, more than 500,000 hectoliters of impure and badly rectified alcohol. In certain sections of the North it still remains possible to pay in brandy the agricultural laborers. Various remedies are suggested for the evil of private distillers, but the one most favored consists in the conversion of apple into cider, and its preservation for years of scarcity, which would be better than its distillation.

HOME DISTILLING

THE EXPERIENCE OF SWEDEN

A man of high aspirations and many good qualities, Gustavus III came to the throne at a time when Sweden was practically ruled by an oligarchy of nobles, and the first task that lay before him was to break down their power and get the control of national affairs into his own hands. This accomplished, he found himself free to develop various ideas he had for the advancement of the country by (among other things), encouraging agriculture, improving the conditions of the peasantry, fostering commerce and mining, digging canals, and establishing hospitals, orphanages, workhouses, and other institutions. He also, less happily, had the idea of making the Court of Sweden a rival of the Court of Versailles in splendor and magnificence; but the heavy expenditure into which he was led by this aspiration, following, as it did, the generous outlay on his various beneficent schemes, seriously affected the national finances, and the Swedish Parliament of those days thereupon declined to vote him the increased supplies of which he was in need. He thus had to consider how best he could raise funds in other directions.

In his dilemma he turned for an object-lesson to Russia.

Down to the sixteenth century the principal drinks of the Russian people were fermented beverages, such as mead, pivo, braga, and quass; but distilled liquors were introduced about that time by the Genoese (then in possession of the Crimea), and they were eagerly welcomed by a populace naturally disposed by temperament, climate, and other conditions to the use of the strongest drinks they could obtain. Vodka (corn brandy) seemed to satisfy this craving for stimulants more completely than the aforesaid fermented beverages, and before long it was recognized as the national drink, Russia thus becoming known as "the land of vodka."

To successive Russian rulers the opportunity thus afforded them of making money out of the vices of their people was too

good to be lost, and they proceeded to exploit the new passion for vodka for all they could get out of it in the interests of their treasury. There was absolutely no pretence in Russia, in those days, of regulating the traffic with a view to checking insobriety. All that was aimed at was to make the manufacture and sale of spirits "as prolific a source of revenue as the unlimited autocratic power of a ruler could possibly make it"; while coupled with the greed and power of the ruler were the greed and power both of a swarm of officials (from vice-governors of provinces downwards), who all wanted a few pickings for themselves out of the money raised before it reached the Imperial treasury, and also, later on, of numerous contractors, who farmed out the traffic from the fiscal authorities, and made huge profits from the business to as late a period as 1862, when the farming system was abolished, Government monopoly following in 1895.

How greatly the interests of the Russian peasantry suffered under a system which thus deliberately sought to stimulate and encourage their drinking propensity, and what a curse excessive vodka-drinking has become in Russia, under direct Government patronage, are matters I need not stay to discuss. The point I am here concerned in is that when Gustavus III of Sweden looked round to see by what means he could best supplement his own inadequate revenue, he was struck by the great fiscal success of the Russian system, and resolved that he would himself see what he could do to raise money by means of distilled beverages.

If he had any qualms of conscience as to the prudence of this step, they must have been soothed by the then popular idea that, in encouraging the distillation of spirits from native-grown produce, substantial advantages would be conferred on agriculture. In any case, the fact remains that he started business as a distiller by setting up Crown distilleries in 1774, and seeking to establish the production of spirits in Sweden as a Crown monopoly. So bent was he on achieving this aspiration that he turned into a distillery the venerable block of buildings constituting the Castle of Kalmar. Constructed originally in 1200, the castle had been rebuilt, enlarged, or restored at various periods, finally taking the form of a quadrangular edifice, with towers, ramparts, and moats; it had withstood eleven sieges, it

had been the frequent residence of Kings and Princes, and it was now doomed to be converted into—a distillery! A wind-mill was even erected upon the highest tower, and, later on, the largest room in the castle, known as the “Unions-Sal,” became the granary, the throne which had hitherto stood there being cleared out (so as to increase the space available for the grain), and sold for what it would fetch. In the further interests of the Crown monopoly, the Swedish pastors (most of whom were already their own distillers, and from whom many of the peasantry had learned the art) were called together and told they must not only instruct the people that henceforth they were to get all their spirits from the Crown, but they were also to impress upon them that, as a national duty, they were to drink as much of such spirits as they could!

The action thus taken by the King led to widespread discontent. Popular uprisings occurred; there was a tacit revolt against the idea of a Crown monopoly, and illicit distilling and smuggling spread throughout the land. The opposition became so vigorous that the Crown monopoly had to be abandoned thirteen years after it had been set up, and the Government sought to appease popular clamor—and, at the same time, to further still more “the interests of agriculture”—by giving to every farmer the right to distil from his own produce for home consumption, while tavern-keepers in the country, and brewers and all freeholders in the towns, were empowered to distil for the market.

From this time the drinking of spirits in a most potent form became more than ever a national habit in Sweden, permeating all classes of society, but having consequences especially marked and especially deplorable for the peasantry in the country and the laboring people in the towns. The right of practically every man to do his own distilling became a fixed article in the national faith. At the beginning of the nineteenth century all persons possessed of cultivated land could distil; from them the same privilege was extended to tenants, provided the owner of the land gave them leave, the right to sell (in quantities of not less than 2 pints) going with the right to distil; while in the towns not only every householder, but even the householder's lodgers (if he gave them permission), could distil on payment of a trifling tax to the State.

The result of this condition of things was that in the rural districts every peasant's cottage became, not only a distillery, but a place for the sale and consumption of home-made spirits of the worst possible type. A royal ordinance enacting stringent regulations against drunkenness was issued in 1813, but the evil was likely to remain as pronounced as ever so long as domestic stills were regarded as the natural right of every householder.

Some attempt at interference with them was made in 1824, but with so little success that five years later the number of stills on which license fees were paid (in a country then having a population of only 2,850,000) was no fewer than 173,124. At that time the annual consumption per head of the population of spirits containing close on 50 per cent of alcohol was about $7\frac{1}{2}$ gallons. The farm hands were not infrequently paid their wages in liquor, and drinking bouts were regarded in the light of patriotic gatherings, where every man present thought it his duty to drink as much spirits as he could in the special interests of agriculturists who otherwise would find it difficult to use up surplus produce for which there was no market. "The whole country," in the words of a traveler in Sweden at this period, "was deluged in spirits."

The consequences were indeed deplorable, and symptoms of rapid physical, moral, and mental decadence spread with steadily increasing gravity on every hand. But these results were essentially due, not to the action of a recognized "trade" under effective magisterial and police control, but to the existence of national habits directly traceable to a baneful practice of household distilling originally established with the sanction and encouragement of the Legislature itself.

An active campaign carried on by the Swedish Temperance Society, which came into existence in 1837, had considerable influence in arousing public opinion; though it should be mentioned that the members of this society pledged themselves in regard only to "spiritous liquors," in which they included neither wine nor beer. In 1852 and 1853 over 800 petitions were presented to the King praying for an alteration in the licensing laws. These had already undergone some important changes in 1835, when land under a certain value was deprived of the right of distilling, which, also, was

to be carried on for only six months in the year, while various other modifications were made; but the general conditions still remained such that in 1854 a Special Committee of the Diet reported:

"The comfort of the Swedish people, even their existence as an enlightened, industrious, loyal people, is at stake, unless means can be found to check the evil. Seldom, if ever, has a conviction so generally, so unequivocally, been pronounced with regard to the necessity of vigorous measures against the physical, economical, and moral ruin with which the immoderate use of spirits threatens the nation. A cry has burst forth from the hearts of the people appealing to all who have influence—a prayer for deliverance from a scourge which previous legislation has planted and nourished." —["Licensing & Temperance In Sweden, Norway and Denmark," Edwin A. Pratt.]

THE EVIL IN FRANCE

Within three generations the drink habits of France have undergone profound changes. It was one of the soberest countries of Europe, and has become the most alcoholic. According to Dr. Bertillon, the consumption of alcohol has increased about sixfold in sixty years. Various forms of distilled liquors have supplanted wine as a national beverage.

The real factor back of this extraordinary condition is the distilling interest. There are more than 1,300,000 distillers in the country, says Dr. Bertillon, who estimates the number of wine-growers to be even greater. Practically there is no restriction upon the distillation of spirits from cereals and fruit. Under the law any householder may produce five gallons of spirits for home use free of taxes; but in reality thousands take advantage of lax supervision to manufacture spirits for sale. It has been asserted that there are upward of a million places throughout France more or less engaged in this fraudulent practice. Whatever the number may be, we know that over large rural areas the peasantry not only make and drink spirits, but offer it for sale at incredibly low prices.

The real temperance campaign in France is directed against dis-

tilled liquors, which are held responsible for the alcoholism from which France has suffered. There is no thought of stopping the sale of beer and wine. Rather the effort is to encourage their use as the accustomed and natural beverages of the people in its temperate days. ("Alcohol & Society," Koren.)

A PROHIBITION ERA—IS IT COMING AND SHOULD WE WELCOME IT? *

By Oscar W. Ehrhorn, MA., LL.B.

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The purpose of my paper is to consider whether or not the program of the prohibitionists is apparently to become the policy of this country, and if so, whether or not it will, from a legal, medical and social standpoint, accomplish the great good which the advocates of this system contend would ensue.

We must first start with the premises that our government is founded upon the right of personal liberty and that unless the interests of society demand otherwise, the individual may choose for himself how he shall live and even what he shall drink. In a society, however, the individual must subordinate his rights to the general welfare of his fellows in the common interest, and the courts have determined from time to time how far these rights may be limited, and the restrictions with advancing years and a more complex civilization have become greater and greater.

With respect to the regulation of the use of intoxicating liquors as a beverage, the Supreme Court of the United States and the courts of the various States have from an early date recognized that by reason of some of the evils flowing from the indiscriminate use of intoxicating liquors, that the government may not only regulate but also abolish it. This is an elementary proposition now, known to all, and yet the reason for the same should not be lost sight of, for when any program is advocated by educated and reasonable men, it should be based upon reason, and where the

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reason does not in the particular instance exist, the right, though recognized, should not be exercised. Conceding, therefore, the right of the citizenry to enact universal prohibition, the question then presents itself, would the evils which such an era seeks to eliminate be eliminated or would it bring in its train other evils of an equal or greater degree? . . .

Assuming that we are about to enter upon a prohibition era and assuming that we shall enjoy (?) prohibition widely, generally and strictly enforced, the question will immediately suggest itself in this presence, "What will be the effect on the human organism and how will future generations be able physiologically and otherwise to withstand alcohol?" Will not the immunity to its evil effects in large quantities which we now enjoy and our physical toleration to it be lost to our offspring of the next and succeeding generations?

Most thinkers concede that the average normal man has an innate or instinctive desire for such substances as alcohol, and history teaches us that it has been indulged in by all tribes and nations with but few exceptions, from the earliest of ages. Where it has been apparently abolished among the great nations and tribes of the earth it has been so accomplished through purely mechanical and compulsory devices. It seems fair, therefore, to assume that if through coercive measures the use of alcohol should be inhibited for one or more generations, that in succeeding generations its use would probably again be indulged in, and the human system having lost its resistance and tolerance, there would ensue a far greater destruction than would result if instead of prohibition the same efforts were directed to a rational temperance program.

The next consideration that presents itself is as to whether or not a coercive prohibition would accomplish what its advocates assert. Their purposes are twofold. First, to stop alcoholism as such, and, second, to stop indulgence in alcoholic beverages upon the basis that any indulgence however slight is a poisoning of the human system and should therefore be abolished. They assert that by preventing absolutely indulgence in alcoholic beverages that social, economic and physiological results will ensue so that we shall more nearly approximate the perfect man.

Now, with reference to the first desired result, it is sufficient

to say that in those States and communities where legal prohibition has been in effect for a greater or less period of time, it has not been effective to stop alcoholism or even apparently to reduce it, as the figures from official sources will demonstrate.

Official hospital and police figures in all the prohibition States from Maine to Kansas and beyond, show conclusively that notwithstanding that those States have had prohibition for many years, yet inebriety, alcoholism and the psychoses resultant in whole or in part from them have not alone not been banished, but in many instances have even been increased.

With regard to the second desired result, the official figures of the government, as well national as State and local, conclusively show that even where the attempt has been made to prevent indulgence in liquor as a beverage, the individual has never had much difficulty in assuaging his thirst and of obtaining the wherewithal to enjoy that solace which to many it brings.

Where local sales of liquor have been prohibited the consumer has obtained the same through mail-order houses or otherwise. So that, although from time to time so-called prohibition territory has increased, nevertheless the Internal Revenue Department figures show that there has been a continuously increasing amount of liquors manufactured, sold and disposed of not only in gross quantities but also per capita. An apparent exception was the year 1914 to 1915, when there was a decrease, but the figures of the Treasury Department for the nine months ended March 31, 1916, show an increase tax-paid withdrawal of distilled spirits amounting to 7,658,-478 taxable gallons and a decrease in fermented liquors removed from breweries for consumption or sale amounting to 1,537,779 barrels.

This would seem to add point to the contention that if obstacles are thrown into the way of some of the citizens in prohibition territory in obtaining beer and light wines which are of considerable bulk, that they take to more ardent spirits of lesser bulk.

An interesting light is also thrown on this subject by the Interstate Commerce Commission.

Commissioner McChord, in the report of the Interstate Commerce Commission in the matter of the investigation and suspen-

sion of advances in rates by express companies for the transportation of liquor (Investigation and Suspension dockets Nos. 25 and 25-A) states as follows:

"The industry directly concerned in this question is that of the mail-order liquor houses. The mail-order business in packages of liquor in this country had its beginning about a quarter of a century ago. At that time it was of small proportions, very few packages being shipped, and those only at short distances. It was the spread of the prohibition movement that gave vitality to this character of traffic in liquor. Local option at first drove the dealers from the localities where they had carried on a retail business to settle on the outskirts of the proscribed territory and ship liquor into it. As the prohibitive area spread, the shippers were driven farther and farther back, but their business became more extended in the territory covered, and larger in the volume of the traffic. With state-wide prohibition came the interstate traffic in liquor. The decision of the Supreme Court that this traffic was interstate and therefore superior to interference by the State governments gave the industry a tremendous impetus, and established the express companies as the carriers of practically the whole of this traffic.

"The proportions of the business throughout the country at the present time cannot be estimated with any degree of accuracy, but figures presented by the Southern Express Company may be made the basis of a fair approximation. Jacksonville, Fla., probably the largest shipping point for liquor in the South, sends out between three and four thousand packages of one or two gallons daily, or a total of about one and one-half million gallons a year. Chattanooga ships about 786,000 gallons; Richmond, 546,720 gallons; Petersburg, 268,128; Pensacola, 267,760; New Orleans, 255,856; Augusta, 215,150; and Norfolk, Va., Cairo, Ill., Emporia, Va., Louisville, Ky., Portsmouth, Va., Roanoke, Va., and Savannah, Ga., ship more than 100,000 gallons each annually. The total annual movement indicated is 6,085,264 gallons. When it is considered that these shipments are almost entirely from three or four States in the Southern

part of the country and that the traffic itself is country-wide, it is not an extreme estimate that the entire volume of this traffic, going entirely to consumers and not to dealers, is in excess of 20,000,000 gallons a year.

"These packages are sent express charges paid direct to the consumers on orders in most cases paid for in advance of shipment. The movement is much more active in the South than in other sections of the country, partly because of the extent of the prohibition territory in that section, partly because of the large quantities of very cheap whisky manufactured and shipped there for the consumption of the negro population. While it is not the function of this commission to be influenced in its conclusions by the moral aspect of the question, it is impossible not to recognize in this traffic one of the important factors in the race problem of the South—the evil spirit back of that problem in more ways than one. Generally speaking, the evidence presented at these hearings went to show a distinct cleavage in the industry; in the West a higher grade of liquor was shipped and a better clientele appealed to; in the South both whisky and consumers were on a considerably lower grade."

It will therefore be seen from this impartial governmental investigation and report that though the South may be heralded far and wide by the total abstinence propagandists as prohibition territory, yet the name "prohibition" in this connection spells a widespread and increasingly extensive indulgence in alcoholic beverages.

While this report was rendered in 1911, the government officials bear witness to the fact that the same conditions have continued.

That prohibitory laws do not prevent indulgence in intoxicating beverages is also borne out by personal investigations and experience. While in conversation with the Archdeacon of Tennessee in February last, he alluded to certain illicit stills and I remarked, "But Tennessee has State-wide prohibition." "Yes," said he, with a laugh, "and everybody in the State carries a grip."

Archdeacon Claiborne in his recently published pamphlet, "A Story of Mountain Life in East Tennessee," also says:

"The family feuds, the illicit distilleries, are still there and the people of the mountains feel they have a right, as they argue the property is theirs and also the labor that makes the whiskey. They cannot see why the government puts a tax on whiskey when it does not tax the meal made on the same land by the same labor, consequently the mountaineer thinks that the government is interfering with his rights. State rights extend in his theory even to the individual. The mountaineers' idea of loyalty is rigid and they would not hesitate to lose their life for their friend or family,—not a healthy condition of things for the revenue officer whom they feel is an enemy of the community, and as they have but one class of enemy—whether a rattlesnake or a man—they treat them all alike and they are economical with their bullets. This state of lawlessness cannot be changed by legislation. . . ."

While prohibitory laws may limit the indulgence of some in alcoholic beverages principally of large bulk, they almost always result in increased indulgence in those communities in cocaine and morphine and other narcotic drugs. The Commissioner of Internal Revenue in his last report estimates that there are in the United States probably several hundreds of thousands of drug addicts, and government figures show that while the importation of opium from the decade from 1860 to 1869 was 1,425,196 pounds, in the decade from 1900 to 1909 it had increased 351 per cent, or to the amount of 6,435,623 pounds; yet this does not take into consideration the amount smuggled during the period. A wide canvass made by the government among the medical profession shows that between fifty and seventy-five thousand pounds of opium are sufficient to satisfy the medicinal needs of the American people, and that 15,000 ounces of cocain are only necessary, yet this country imports, manufactures and consumes over ten times that amount of cocain.

A reference to the State Hospital and other official reports will show that with the spread and enforcement of prohibition laws there has been an increased indulgence in narcotic drugs.

The Commissioner of Internal Revenue in a recent letter to me called my attention to an article appearing in the Public Health

Reports of the United States Public Health Service on March 10, 1916, regarding the sale and use of cocain and narcotics and from that article and the papers it appears that for the years subsequent to 1910 there has been a distinct increase in the use of these drugs, and the estimate of the approximate number of average doses of habit-forming drugs imported into the United States during the fiscal years 1912 to 1915, inclusive, amount to a total each year of from 1,986,960,300 to 2,518,800,000 of opium, morphin and its other alkaloids, as well as from 194,900,000 to 324,000,000 doses from coca leaves and cocain. Should we not therefore pause before attempting to inaugurate an era which, while supposed to lessen one evil, seems to add impetus to or creates a new or far greater evil.

Rear Admiral Bradley A. Fiske in his letter to the Secretary of the Navy, made public April 16, 1916, protesting against the prohibition of wine and beer on ships and at naval stations, said:

Another effect would be the increased temptation to officers to secrete whiskey in their rooms and to drink whiskey (a most dangerous thing) instead of wine or beer. Another effect would be an increased temptation to use cocain and other drugs.

This danger is real—not imaginary. Many people crave stimulants of some sort, and if they cannot get what they prefer will take anything they can get. Cocain takes up little space and is very convenient. Its use among enlisted men has increased since they were prohibited the daily bottle of beer.

One of the other results which it is said will be obtained if prohibition becomes general is that it will cut off the taste for liquor from the growing generation, thus preventing overindulgence. The police data from the State of Maine show that, notwithstanding the long reign of prohibition in that State, the young offenders arrested for intoxication have not decreased, but rather increased, both absolutely and relatively. It would therefore seem that the duty of our professions should be to preach and if possible obtain an era of true temperance which would mean regulation, so that there should be had, or at least permitted, moderate indulgence, unless it should be shown conclusively by careful observation and tests that moderate indulgence in liquor is a banæ. . . .

Last year the Nutrition Laboratory conducted an experimental investigation of the effects of moderate doses of ethyl alcohol in man, and the results of the investigation and experiments, together with abstracts from various sources, were published in a report by Raymond Dodge and F. G. Benedict of the Carnegie Foundation, in 1915. Various experiments were made with reference to its effects on neuro-muscular tissues with especial reference to its effects on mental processes. That the results were entirely inconclusive to warrant passing any radical measures with reference to alcohol as a beverage will appear from a careful examination of that report, from which the following extracts, though taken at random from various parts of the report, will be sufficient, however, to make the point. Thus there appear the following statements among others to which I direct your attention:

"Probably no subject in physiological chemistry has received so much desultory experimental attention as has that of the effect of ethyl alcohol on organic processes. We have numerous systematic and exhaustive contributory studies on the physiology of the proteins, of the carbohydrates, and of the fats; but in spite of the fact that several million people regularly obtain a somewhat larger proportion of their total energy requirement from alcohol than they do from protein, there has been no adequate, systematic investigation of the metabolism of alcohol and its physiological action. This is a misfortune to science. On these grounds the Nutrition Laboratory believed it important to classify the lines of research, and to prepare a tentative plan for an extended systematic investigation into the physiological action of ethyl alcohol in man. (Page 9.)

While the Nutrition Laboratory is committed to a continuation of the investigation, and while definite arrangements have been formulated to make the alcohol investigation, either on the physiological side or on the psychological side, a substantial part of each year's work, it is inconceivable that any one or a dozen laboratories can adequately complete this program in a decade. (Page 10.)

Neither the technical nor the practical difficulties of this

phase of the problem were underestimated. As we pointed out in the psychological program, unfortunately only the simpler and more elementary neuro-muscular processes can be studied directly by present laboratory techniques. Of the important higher mental and moral processes there is at present scant probability for securing experimental data of scientific reliability, owing to the difficulty of measuring them experimentally in any direct way. (Page 11.)

It is a well-established fact that ethyl alcohol, when taken in small doses, the total amount per day not exceeding 75 grams, is completely oxidized in the body and thereby replaces nutrients as a source of energy. This fact suggests a large number of experimental problems in the domains of physiology and physiological chemistry, which, when studied by the newer methods, should give results of fundamental importance. (Page 266.)

Unfortunately, only the simpler and the more elementary neuromuscular processes can be studied directly by present laboratory technique. Of the important higher mental and moral processes there is at present scant probability for securing experimental data of scientific reliability. Modifications of the moral controls of business judgment, tact and reliability, of mental stability and balance, are not experimentally measurable in any direct way. They must be studied, if at all, by some indirect method. This technical defect is a serious limitation to all experimental investigations of the psychological effects of the ingestion of alcohol. (Page 272.)

It may not be amiss to emphasize at the beginning that the basic experimental method of difference in its true form is inapplicable in such experiments as these. It is obviously impossible to isolate a single experimental circumstance in man. The living human organism includes too many complex variables. It is subject to too many rhythmic and arrhythmic changes, which make it, at any moment of time, different from what it has ever been before. After the introduction of our experimental circumstance into this complex of ever-changing conditions, we could not be sure that even notable variations in the measurements of selected processes were not conditioned in

whole or in part by organic changes which were quite unrelated to our experiment. (Page 18.)

But, in man at least, it is never a satisfactory procedure to regard succeeding changes in a measures phenomenon as the effect of an experimental change, merely because one is consequent to the other.

If all the organic rhythms and accidental changes were adequately known we might arrive at the quantitative results of our experiment by a process of subduction. Unfortunately, with our present knowledge this can not be done directly. With a few notable exceptions, such as the work of Lombard, and of Grabfield and Martin, we know altogether too little about the daily rhythms of even the simplest neuromuscular processes. We have still scantier quantitative data of the accidental environmental effects, such as those produced by changes of temperature, light, humidity, etc. Except in a few isolated cases we have no knowledge at all of the mental consequences of such complex vital processes as are involved in the secretions of the various ductless glands, changes in blood-pressure and pulse-rate, the ingestion of different foods, and various kinds of muscular activity. (Pages 18-19.)

While we must carefully protect the experiments from every known bias, we must realize the possibility that in any given instance the real effects of alcohol may be completely masked by the accidental variables, and on the other hand, that on occasion the real effects may be more or less grossly exaggerated. (Page 19.)

Neither in the experimental literature nor in the theoretical discussions is there any uniform standard of alcohol dosage. Probably the most satisfactory arrangement of the dosage, in man as in animals, would be according to some definite percentage of the mass of the blood. This would appear to be necessary in all attempts to measure individual differences. (Page 29.)

The results of our experiments on the effect of alcohol on memory are summarized in table 20. While different subjects vary widely in the effect of alcohol on the memory process as

measured by our technique, the total results show no predominant tendency of alcohol on the main group of subjects. As far as our measurements go, rote memory (primary retention) is neither better nor worse after small doses of alcohol. (Page 133.)

The data at hand show no clear tendency of muscle threshold after alcohol, but, as we have indicated, they are too unreliable to be of any real significance. (Page 147.)

On the problem of muscle fatigue and recuperation we have no direct data. Prolonged free oscillation of the finger, which we proposed in the program to study in this connection, proved to be complicated by too many capricious factors to be usable. (Page 147.)

Reports of the effects of alcohol on the circulation are among the earliest and most common data on the physiology and pharmacology of alcohol. But, notwithstanding an enormous amount of experimental material, there is no commonly accepted generalization. The discrepancies and contradictions of the earlier investigations appear in the more recent. Alcohol has been found (1) to increase the pulse-rate, (2) to decrease it, (3) to do neither, and (4) to do both. Some illustrative observations are given on page 187. (Page 186.)

Summaries which attempt to generalize at all concerning the effect of alcohol on pulse naturally reflect the experimental discrepancies. Thus Lauder Brunton states that alcohol in moderate doses increases the pulse-rate. Horseley and Sturge hold that alcohol decreases the pulse-rate. Notnagel and Rosebach, and Rosenfeld state that it has no significant effect, while Cushny accepts the view that it both increased and decreased the pulse, according to circumstances, but has no effect on normal quiet subjects. Meyer and Gottlieb, while classifying alcohol among the heart-accelerating medicaments, appear to hold that its action has not been proved for normal human subjects. Indeed, the more recent general summaries show a conspicuous tendency to regard the effect of moderate doses of alcohol on the human pulse as more or less problematic. This uncertainty seems to be widely reflected in medical practice. (Page 186.)

The unanalyzed question whether alcohol effects a positive or negative increment in the capacity of the subject for any specific mental performance or group of performances is scientifically crude. We would not appear to deny the practical importance of such a question. Both morally and economically it may be useful to know whether an individual can do more or harder work after taking alcohol as a part of his food or as a condiment. But the practical capacity for effective work of any definite sort is scientifically the product of an indefinite number of interacting neural facilitations and inhibitions. In this complex and relatively unexplored interplay of psychophysiological processes, the balance in any direction can rarely be predicted with scientific accuracy. In no single case do we know accurately either the number or the relative force of the various factors. Conversely, any specific outcome may be the resultant of any definite number of various configurations of the polygon of forces which may be in operation. In ergographic accomplishment, for example, a specific increase in the work done may be due to an actual increase of the available muscular energy, to a spurt, to increased interest and determination; or it may be due to decreased susceptibility to the normal inhibiting influence of muscular discomfort or pain. Similarly, a decreased reaction time may be due to increased attention, to real facilitation of the motor discharge; or it may be due to careless reaction to some accidental pre-stimulation cue that the true stimulus is about to come, or even to some arbitrary simplification of the reaction modes, such as the change from a sensory to a motor type. Only correlated data can determine which of the interacting tendencies is actually responsible for the increased output. The naïve assumption that increased physiological action is always organically beneficent, as well as that depression of physiological action is always organically disadvantageous, are merely popular prejudices." (Page 247.)

These excerpts, taken from this intensive and interesting report of which there are many of similar tenor contained therein, are sufficient to uphold the position of reasonable men that we are not

THE UNITED STATES BREWERS' ASSOCIATION

justified in adopting a radical procedure with reference to alcoholic beverages in moderate quantities upon the basis of its effect on the community, for it is a complete *non sequitur* that such indulgence results in such a detriment to the individual, and the individual therefore such a serious menace to society in general that the personal liberty and right of choice of all individuals should be curtailed. However, we need not be discouraged. Notwithstanding the increase in prohibition territory, prohibition viewed from the standpoint of the moderate consumer has not increased. An examination of the prohibition laws of the different States will show that territory listed as prohibition does not restrict the consumer save in the quantities that he may consume and in the ability to easily purchase and obtain the same. Thus Alabama prohibits an individual receiving or possessing at one time or within any period of 15 consecutive days more than 2 gallons vinous, 5 gallons (40 pints) malted, or 2 quarts spirituous or other prohibited liquors, or more than one kind of these kinds named.

Arkansas permits any quantity for personal use.

Georgia allows a person to receive and have in possession at one time or within any period of 30 consecutive days not more than one gallon of vinous liquor or 6 gallons (48 pints) of malted liquors or more than 2 quarts of spirituous liquors. At the time of writing (April, 1916) near-beers are allowed to be sold under regulations, and those of us who have sampled the near-beers of the South in the many States know what this permission means.

Idaho permits an individual to have in his possession for private use one gallon of intoxicating liquors or one case of beer (24 quart bottles).

Kansas has no restrictions on the quantity that may be shipped. So, too, is the law of Maine.

Mississippi permits shipments of one gallon a month for personal use only.

North Carolina permits one quart of spirituous or vinous liquors or intoxicating bitters, or five gallons of malt liquors every fifteen days.

North Dakota permits any quantity, provided the same is for personal use.

Oklahoma permits one gallon of spirituous or vinous liquors or one cask of malt liquor at one time.

Oregon permits two quarts of vinous or spirituous liquors or 24 quarts of malt liquors within a period of four successive weeks.

South Carolina permits a person to order and receive one gallon of liquor or beverages for his or her own personal use every calendar month.

Tennessee passed a law in 1913 limiting shipments to an individual for personal use to one gallon, but the Supreme Court ruled in the case of *Bird v. State*, 175 S. W. 554, April, 1915, that this law does not prohibit the personal transportation of quantities greater than one gallon.

Virginia has no restrictions as to quantities as yet. The manufacture of wines and malt liquors (containing not more than $3\frac{1}{2}$ per cent of alcohol) by companies now engaged in their manufacture, is permitted for sale outside the State, where the same may be sold legally.

Washington permits receiving within the State by an individual one-half gallon of liquor or 24 pints of beer within any twenty-day period.

West Virginia restricts shipments of liquor to an individual to one-half gallon every month.

Further interesting data might be given on this subject, but these statements would seem to show that sentiment in favor of total abstinence has not as yet reached any such proportion as would indicate that a prohibition era is at hand.

An interesting illustration of this is found in the results of a vote taken early in 1916 by the Church Temperance Society, which is the recognized temperance society of the Protestant Episcopal Church. This vote was taken upon the question of so amending the constitution of the society as to practically make it a total abstinence as distinguished from a temperance society, which it has been for many years. One thousand voting papers were sent out to the Bishops of the Episcopal Church and to the members of the society, who are scattered throughout the country. An analysis of the vote made by the secretary at my special request showed that only 510 were sufficiently interested to take part in the vote, as that was

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the total number of ballots cast. Of this the number in favor of the amendment was 252, the number against the amendment 258. Of the clergy who voted in favor of the amendment there were 191 in favor and 151 against the amendment. Of the laity 61 were in favor and 107 against. There were 43 bishops who voted, of whom 26 were in favor and 17 against it. I also requested information as to how many of the laity who voted for and against were physicians and also how the vote was distributed with reference to States and to urban and rural communities; this information, however, could not be afforded me.

But the data of this vote, taken among persons who were already enlisted in an active campaign against intemperance and who are among those most interested in obtaining the reign of total abstinence, is of great significance insomuch as a majority of those voting were apparently not convinced of the urgency or desirability of trying to make others abstainers; in addition to this, it must be remembered that there were some 490 who were sufficiently indifferent as not to vote upon the problem, although it is generally recognized that those not voting are satisfied with conditions as they are and would show a very small part actually in favor of the proposition. If this be so in such a voting constituency, it is safe to assume that among the citizens at large there is no general sentiment in favor of compulsory total abstinence such as would warrant us in assuming that such an era is at hand. . . .

May we not hope that our members and those of the local Society of Medical Jurisprudence of Washington (representatives of which are meeting with us) and the learned professional men generally will bend their efforts to enlighten public opinion on the subject of alcohol as it has been enlightened on psychoses with its resultant benefits to all. Then will the public recognize alcoholism and dipsomania as diseases to be treated and entirely distinct from the moderate and normal use of alcoholic beverages which should be subject only to control and curtailment when the interests of society are demonstrated conclusively and incontestably to require it.

CAPTAIN HOBSON FINDS A "FINDING"

This is the finding of the Congress of London, signed by practically all of the great scientists that had assembled there from all over Europe, and I do not believe it has ever been contested:

"Exact laboratory, clinical and pathological research has demonstrated that alcohol is a dehydrating protoplasmic poison and its use as a beverage is destructive to the human organization. Its effect upon the cells and tissues of the body are depressing, narcotic and anaesthetic. For therapeutical purposes its use should be limited and restricted in the same way as the use of other poisonous drugs."—Captain Richmond P. Hobson in a debate before the Republican Club, New York, Feb. 19, 1916.

* * * * *

The Twelfth International Congress on Alcoholism was held in London in 1909. In no part of the official record of the proceedings does this "finding" appear and nowhere is there any indication that such a subject was under discussion. In what purports to be the report of the United States delegation to the Congress is found this passage:

"Although no resolutions were passed, the following statement drawn by Dr. T. D. Crothers of the American delegation was signed by those medical delegate and *other doctors* whose names are appended."

Then follows the famous "finding" as quoted by Captain Hobson.

This statement was signed by 26 persons, seven of whom hailed from the United States. There were 56 official delegates alone accredited to the Congress. The individual membership of the Congress included according to the official report some 1,100 persons, and about 200 societies were mentioned in that document as holding membership or being represented.

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WHAT THE SCIENTISTS SAY

A short time ago the city of Baltimore was called upon to decide whether or not it would adopt prohibition. Four of the leading physicians of the city united in a public statement in part as follows :

We, the undersigned, physicians and surgeons of the City of Baltimore, endorse the following statement made by Sir William Osler, former chief of the medical staff of John Hopkins Hospital, in his work entitled "Principles and Practice of Medicine," eighth edition, page 396 :

"In moderation wine, beer and spirits may be taken throughout a long life without impairing the general health."

The men who signed the statement were Drs. Wm. H. Welch, W. S. Halstead, Hugh H. Young, and Julius Fridenwald.

The International Physiological Congress held in England in 1898 adopted the following declaration :

The physiological effects of alcohol, taken in diluted form in small doses, as indicated by the popular phrase, "moderate use of alcohol," in spite of the continued study of past years, have not as yet been clearly and completely made out. Very much remains to be done, but, thus far, results of careful experience show that alcohol so taken is oxidized within the body and so supplies energy like common articles of food, and that it is physiologically incorrect to designate it as a poison, that is, a substance which can only do harm and never good to the body. Briefly, none of the exact results hitherto gained can be appealed to as contradicting, from a purely physiological point of view, the conclusions which some persons have drawn from their barely common experience, that alcohol so used may be beneficial to their health.

Dr. Arthur R. Cushing in his text-book of "Pharmacology and Therapeutics" said :

When beers and porter do not derange the digestion, they are most nutritive of all the alcoholic preparations, owing to the

large amounts of carbo-hydrates they contain. Alcohol taken in addition to the ordinary food is either itself transformed into tissue, or undergoes oxidization instead of some substance which in turn is used to build up the body.

Dr. Allan McLane Hamilton ("Nervous Diseases") said :

A substance like alcohol, which is not only a food but a useful medicinal agent, should not thus be lightly and unfairly designated "poison," although when immoderately used it is pernicious. Certain admittedly beneficial sustinants of every-day life might as well be called poisons, among them sugar, which in excess produces serious tissue changes and disease, and which "in a concentrated solution is a powerful cell poison." Even water, which total abstinence poets have delighted to praise in flowing verse, may overburden the heart, the blood vessels and the kidneys, producing an increase in blood tension, if taken habitually in immoderate quantities and may give rise to dilation of the stomach and do a great deal of other harm.

Dr. Walter Ernest Dixon, Professor Materia Medica, etc., Kings College University of London, writing in "The Nineteenth Century" for March, 1910, said :

The secretion of the thyroid gland is essential for the proper working of the body, and both a deficiency of the secretion and an excess are prejudicial to health; the active constituent of the thyroid gland is undoubtedly a poison in excess but not in normal amounts. Alcohol also is a poison in narcotic, but not in physiological dosage. Even so well recognized a food as sugar, which is a normal constituent of the body, when present in the blood in excess, causes disease such as fatty degeneration.

Dr. Ulrik Quensel, the world-renowned Swedish physiologist, in the course of an elaborate treatise said :

As I have developed in the previous chapter a strictly moderate use of alcohol is, according to my opinion, not to be con-

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demned from the individual hygienic point of view, and a majority of physicians probably take the same stand. Completely to discard all use of alcoholic drinks, even the most moderate, solely on dietetic grounds, is not supported by the results which hitherto have been gained through investigations directly aiming to try out the action of alcohol upon digestive functions and secretions by means of available scientific methods.

ORATORICAL AND STATISTICAL FALLACIES

Some of the fallacies and deficiencies of well-known prohibition orators and statistical writers on the alcohol question are discussed in recent papers by the Scandinavian mathematician and statistician, Mr. Arne Fisher (F.S.S.), whose first volume on "The Mathematical Theory of Probabilities and Its Application to Statistical Methods," recently translated into English, caused much attention and favorable comment in scientific circles in this country and Great Britain. Mr. Fisher has dealt with the question in a popular article in Danish as well as in a chapter of the second volume of his forthcoming treatise on "Probabilities," which at present is being translated for publication in English. Through the courtesy of the author's English publisher some passages, as translated from the Danish originals, are available for use here.

Mr. Fisher has a little dignified fun at the expense of ex-Congressman Richmond P. Hobson, whose speech "The Great Destroyer" he recommends as a remedy for "an occasional attack of a bad spleen," but which otherwise, "is the overflow of an orator who has ascended the cathedra with a huge bag of fat phrases without a waist-pocketful of established facts." He directs particular attention to the orator's declaration that

"science has supplemented experience by actual and accurate measurements. If a man drinks one glass of beer, the day on which he drinks it his general efficiency will be lowered an average of 8 per cent. If he takes three glasses of beer a day, or the equivalent in light wines, for 12 days, his efficiency at the end of the 12 days will be lowered from 25 per cent to 40 per cent, depending on the temperament of the man and the nature of the work. In doing mathematical work, like bookkeeping, the loss goes above the 40 per cent limit, in memorizing the loss goes up as high as 70 per cent."

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Protesting humorously against the designation of bookkeeping as "mathematical work," Mr. Fisher refutes this assertion out of his own experience, adding:

"I have read carefully the scientific literature on alcohol—that is the real scientific literature—in six different languages, as published in the past 8 years, and I fail to find the numerical data as given by Mr. Hobson substantiated by truly scientific researches. It is a very difficult and well-nigh impossible task to give actual numerical measures as to loss of efficiency, and it is indeed to my mind a serious question as to the possibility of Mr. Hobson having written down the figures without further thought and deliberation in a certain mood of enthusiasm, at a time when he had drunk rather freely of the perennial and somehow intoxicating fountain of American prohibition oratory."

While Mr. Fisher in the more popular essay deals with Mr. Hobson, he has reserved the much weightier and recent articles by Dr. Eugene Fisk and Mr. Arthur Hunter for a searching criticism in his treatise on probabilities.

"Mr. Hunter and Dr. Fisk," he says, "have really attempted to approach the subject in a truly scientific spirit. They have collected and submitted some very interesting and valuable statistics as far as they go. I think, however, that they have committed quite serious mistakes in their deductions, chiefly due to faulty statistical methods."

It would go beyond the scope of this article to enter into the mathematical analysis of the Danish author. A few of the simpler points are of interest, however, and we quote:

"The analysis of Mr. Hunter and Dr. Fisk follows the old lines of actuarial methods. By dividing the insured lives into total abstainers and non-abstainers we obtain a twofold population wherein the mortality is investigated separately. Now it is often found—but not always—that the mortality is higher among the non-abstainers than among the abstainers, and hence the rather absurd conclusion is drawn that alcohol is the cause of this higher mortality. An absolutely analogous case is offered

in the relation between barometer readings and subsequent rain-falls. Falling barometer readings are generally followed by rainy days and rising heights are generally associated with a clear sky. Undoubtedly there is a marked correlation between the two phenomena. But nobody would have the audacity to claim that a rainstorm was actually and directly caused by a previously observed fall of a barometer. Another and well-established statistical fact is the longevity of the Jew. If we divide a certain population into two separate groups, Jews and Gentiles, we will find that the Jew has a lower mortality rate (except in infancy) than the Gentile. Using a deduction analogous to that applied in the case of total abstainers and users of alcohol, we might equally well argue that Christianity is instrumental in shortening human life. However, I am perfectly satisfied that even the most rabid prohibitionists would disagree with me if I were to tell them that they had better renounce Christianity and turn to Judaism in order to prolong their lives."

Both Mr. Hunter and Dr. Fisk have in their writings referred to the frequently mentioned experiences of various English temperance insurance societies. Even this argument is of little value according to the Danish mathematician. He says:

"The figures from the United Kingdom Temperance and General show clearly that there has been a shifting from the general class to the total abstainers' class, so that in the beginning of the history of the society the entrants in the general class were in the majority, while in latter years (*i. e.*, after 1880) the entrants among the total abstainers outnumbered the non-abstainers. It is thus clear that the phenomenon known as *medical selection* has a much greater influence on the latter group. While medical selection to all practical purposes probably is worn out in the majority of the earlier entrants it is still dominant in a much larger degree amongst the later entrants who are principally among the abstainers. Moreover, there has been a general and marked improvement in longevity in England in the past 50 years. Naturally this improvement will be shown

to a far better advantage among the larger class of later entrants of abstainers than among the earlier entrants of chiefly non-abstainers. An actual calculation of the *Charlier coefficient of disturbancy* for the two classes show that this statistical parameter has a much higher value in the general class than among the total abstainers, clearly indicating that the perturbations, chiefly secular in character, are greatest among the non-abstainers. It is therefore wrong to make a direct comparison between the two classes without a previous elimination of disturbing influences, partly due to secular decrease in mortality and partly due to the wearing off of medical selection. Before such an elimination actually has been made from the original data the much boasted evidence of lesser death rate among total abstainers must at present be said to be greatly exaggerated. This last contention seems to be borne out by five successive valuations of the New Zealand Government Assurance Co. On one occasion the total abstainers' section showed a lower mortality than the non-abstainers, on two occasions the mortality among the non-abstainers was below that of the total abstainers and on two occasions the mortality was equal among the two sections."

The above quotations might give the reader the impression that Mr. Fisher's writings were of negative value in only criticizing other writers. This is not so, however. He immediately proceeds to the positive side of the question by attacking the problem from the standpoint of modern biometry. He seriously challenges a statement by Mr. Hunter "that sufficient statistics have been published by individual companies to justify the statement that persons who have always been total abstainers have a mortality during the working years of life of about one-half of that among those who use alcohol to the extent of at least two glasses of whisky per day."

"The absolute lack of gradation," Mr. Fisher continues, "of the consumption per capita of alcoholic beverages in the Hunter investigation leaves it out of the question to study the effect of a moderate consumption of alcohol. Moreover, as the greater number of industrial workers are not carriers of ordinary in-

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surance as apart from industrial insurance, the alleged ravages of alcohol among the lower strata of society are not brought to light by insurance data. It would seem more appropriate to use general population statistics, since we here are in a far better position to compare the variations in the intensity or force of imbibing habits with rates of mortality. We have now fairly accurate statistics of the consumption of alcoholic beverages per capita of population in various countries. These data give us a better measure of the gradation of alcoholic consumption among various populations than the insurance data and enable us to investigate if there is a relation between the consumption of alcohol and human mortality."

According to the author the only effective way by which it seems possible to make such an investigation is that of mathematical correlation. He proceeds to test the relation by computing a statistical parameter, known as the *coefficient of correlation*, between alcohol consumption and mortality among adult males for quinquennial age groups. This coefficient of correlation is a numerical and exact mathematical measure of relationship between two separate statistical series—in this instance alcohol consumption per capita and death rates—and is represented by a fraction whose value lies between -1 and $+1$. A negative correlation indicates that when a

CONSUMPTION IN LITER PR. CAPITA OF 50% SPIRITS AND BEER AND MORTALITY RATES OF 12 COUNTRIES

50% Alcohol	Beer.	Male Mortality pr. 100,000 of Population by Age							Country.
		25	30	35	40	45	50	55	
Liter.	Liter.								
1.02	2.0	676	673	716	850	1056	1364	1877	Italy
2.31	7.8	710	710	760	910	1130	1460	1980	Finland
2.87	33.0	887	770	737	713	916	1096	1446	Norway
3.97	43.9	372	422	525	685	830	1101	1542	New Zealand
4.07	55.6	448	519	633	816	1083	1395	1816	Australia
4.17	121.6	454	566	732	931	1233	1657	2308	Great Britain
5.51	79.6	645	754	901	1053	1277	1585	2095	United States
6.89	47.8	628	604	637	757	925	1124	1526	Sweden
7.12	101.3	513	556	697	922	1244	1693	2357	Germany
7.16	29.4	492	475	537	679	898	1177	1686	Netherlands
8.82	40.0	752	786	842	1104	1363	1701	2153	France
10.44	84.0	404	447	528	689	938	1187	1707	Denmark

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series increases the other decreases, or *vice versa*. Positive correlation shows the variations proceed in the same direction—positively or negatively—in the two categories. A value of zero indicates a condition of absolute independence.

Proceeding along those lines Mr. Fisher presents the following table, showing the consumption in liter of 50 per cent. alcoholic beverages and of beers alongside the death rates for males at quinquennial ages for 12 countries.

Mr. Fisher's compatriot, the eminent Scandinavian physician, Dr. Ulrik Quensel, has submitted a somewhat similar table in his well-known work on the alcohol question. He does not, however, enter into so detailed statistical analysis as our author.

"Mr. Hunter," Mr. Fisher says, "has in an address delivered at Battle Creek on race betterment quoted some mortality figures from American Insurance companies, giving the following percentages of insured lives as measured on the basis of the American Table of Mortality:

Total Abstainers	59%
Rarely Use	71%
Temperate	84%
Moderate	125%

"Hunter thinks that 'there is conclusive proof that those who are total abstainers live much longer on the average than those who are non-abstainers,' and he finally concludes with the remarks that, 'while not a total abstainer, I am convinced that it would be immeasurably better for this, or any other country, to have the production and sale of alcoholic liquors abolished if it were practicable.'

"Now it seems but reasonable to assume that if we *a priori* are to accept the assertions of Mr. Hunter and his lesser satellite, Dr. Fisk, and several others of the professional American macrobiatians as for instance a certain Mr. E. E. Rittenhouse, then the nations with a high rate of alcoholic consumption would show a corresponding influence in the death rate. Take, for instance, us Danes. We drink about ten times as much 50 per

cent spirits as Italy, three times as much as New Zealand, twice as much as America. We consume 40 times as much beer as Italy, twice as much as New Zealand, 8 liters per head more than the United States. There is no doubt that we easily carry the prize as the heaviest drinkers in the world, outdistancing our nearest competitors by a fair margin, and statistics show we have held this position for a number of years. Remembering that the index number of consumption is given per capita of total population, whereas by far the greatest amount is consumed by the male population between 20 and 60 years of age, it is safe to say that in Denmark is found a relatively larger number of heavy drinkers taking more than the proverbial Hunterian two glasses of whiskey a day and certainly a very large number of moderate drinkers whose mortality according to the New York actuary is 25 per cent above normal. If the Hunterian hypothesis is valid this extra mortality among imbibing persons would tend to swell the general rate of mortality. Now as a matter of fact we find that Denmark together with New Zealand leads the world in low mortality, the race being neck by neck with the latter country slightly in the lead. What counteracting influences have the Danes to neutralize the harmful effects of alcohol, which, if Hunter's postulate is true, surely must be present? It cannot be on account of the climate. The weather in the little Scandinavian kingdom is similar to that of England, and if anything it is somewhat severer. It is true that the Danes have made wonderful advances in the last 25 years and are perhaps in the front van of economic progress and social legislation; but not to such an extent that this social betterment could overcome the tremendous handicap which the Hunter hypothesis necessitates as present in the nation.

"Giving, for the present, Mr. Hunter the benefit of doubt, I shall not insist too much on the Danish figures, but proceed to establish a numerical measure of relationship between use of alcohol and mortality by computing the coefficients of correlation for various ages in the above table. In this connection it must not be forgotten that I started with assuming the validity of the postulate by Mr. Hunter. If this postulate is true, it

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surely ought to stand the test of mathematical correlation. My index numbers of 50 per cent spirits and beers give a measure of the relative strength of alcoholic habits in various countries, while the mortality rates serve as a barometer of longevity for the nations. With due regard for errors of sampling we should on the basis of the Hunterian theory *expect to find a high positive correlation between the two series.*

"As a matter of fact we find, when taking in consideration the various mean errors, the following values of the coefficient of correlation, r :

AGES	50% SPIRITS		BEERS
	$r =$		$r =$
25	— .3012 ± .2624	—	.5447 ± .2029
30	— .2704 ± .2726	—	.3344 ± .2564
35	— .1080 ± .2852	+	.0421 ± .2881
40	+ .0080 ± .2884	+	.1844 ± .2788
45	+ .0982 ± .2858	+	.1717 ± .2800
50	+ .0654 ± .2875	+	.1155 ± .2846
55	+ .0298 ± .2884	+	.0264 ± .2884

"This goes to show that there exists no noticeable relations between the two series except for the younger ages where r has a high negative value, indicating a relation between imbibing habits and longevity. If we were to apply the same kind of reasoning as Mr. Hunter, we should be forced to assert that drink was conducive to long life. The cause of this is to be found in the fallacious conclusions originally drawn by Hunter. His most serious error is the fallacy, only too common among statisticians and actuaries, to describe an observed correlation as the actual presence of a causal relation between two statistical variates. Two phenomena may be correlated without one being the cause of the other. The logical fallacy of the process is—as Mr. Frankland has remarked—analogueous to that perpetrated by John Stuart Mill in endeavoring to base the law of causality on what he termed an *inductio per simplicem enumerationem*. I for one feel convinced that Mr. Hunter and Dr. Fisk, not to mention the much lesser lights among the macrobiatians, have committed the same error by making a mere correlation appear

as an actual causal relation, a true expression of the law between cause and effect."

"The object of the statistician," according to Mr. Fisher, "in computing the coefficient of correlation is essentially that of guiding the investigator to choose the proper lines of research in endeavoring to trace the causes of which we have observed the effect only."

"The object of finally tracking the effects to their original sources," he continues, "I do not think properly belongs to the domain of the statistician, but must be done by a painstaking analysis of the inherent qualities of the individual."

"Take for instance our alcohol question. Mathematically we determined no appreciable correlation between mortality and use of alcohol except for the younger ages where we found an inverse correlation. To use the same kind of logic as Mr. Hunter would indeed, as previously stated, lead to the assertion that strong drinks were conducive to long life. We might, however, be equally justified in asking if it is not longevity, that is to say to possession of a strong and virile constitution and vitality, that is the cause of drinking habits."

"This position is indeed the opposite to that of the eminent English actuary, Mr. George King, who thinks that those who are total abstainers are so because they are vigorous and active and do not feel any necessity for stimulants, whereas those who are not total abstainers might not feel themselves equal in physique."

This according to the Danish mathematician cannot be answered through a mere actuarial analysis of the statistics available at the present time, although he sees great possibilities of a definite analysis in the experience of the Bratt system in Sweden, when available. A partial answer may possibly be arrived at through biological and philosophical speculations, and the writer in his more popular essay has indeed made some novel and bold deductions along such lines.

Basing his theory upon the principle of *balancement organique*, originally introduced by the French philosopher, St. Hilaire, and later on given more trenchant form by Darwin in the science of

biology, Mr. Fisher makes an attempt to extend this principle to sociology.

"Viewed from the standpoint of the principle of '*balancement organique*,' any attribute typifying strength and virility will be correlated with attributes of weaker strains or tendencies towards some form of relaxation. The need of alcoholic stimulants for the person of a strong and virile constitution is to my mind a plausible explanation of such correlation of opposite attributes, as actually shown by mathematical computations."

"Imagine for a moment that we made a sort of experimental raid on 50 soda stands and 50 public taverns (saloons) chosen at random in various districts of New York City and gathered in all male customers at the soda fountains, sipping their sundaes with long silvery spoons, as well as the patrons of the thirst parlors who had a high ball or a glass of lager in front of them. Imagine furthermore all those persons were taken to a sort of statistical police laboratory and subjugated to a series of purely quantitative measurements as to height, weight, arm pull and other antropometric measurements as well as measurements of mental qualities. What would be the outcome of those measurements taken collectively for each of the two groups, the soda sippers and the beer drinkers? Or stated in a more trenchant form: How would the various frequency curves compare with each other in respect to similar attributes among the two groups?

"For more than two years while working as a clerk in a down-town New York business office I made it a rule to go to various soda stands in the down-town district for a soft drink during lunch hours, while after the close of business I generally went to thirst parlors serving stronger ingredients. While lingering at the fountains and the bars I made it a point to try to estimate, as far as it was possible, the heights, weights and general physique of the patrons, recording my observations in the manner described by Sir Francis Galton in his '*Inquiries into Human Faculty*.' Without attaching undue importance to my numerous, but necessarily crude, observations collected in this manner, I might, however, state that if some one asked me the

question: 'Where would you pick collectively groups of men to do pioneer work of all sorts in a newly opened country?' I should not hesitate to answer: 'The bar.' I am firmly convinced that, taken man for man, good and bad alike, the population patronizing the bars in the above observations would collectively come out ahead of the patrons of the soda fountains both as to physique and to mental qualities.

"I take another example from my own country! The heaviest drinkers among us Danes are found among the agricultural population of Western Jutland. From a personal experience covering several years I should say that the majority of those people drink far in excess of the proverbial glass of whiskey and two glasses of beer a day as given by Mr. Hunter. One should indeed here expect to find a hot bed for the alleged ravages of alcohol: High mortality, degeneracy, illiteracy, poor economic conditions, etc. But what do we find? A sturdy, strong race of powerful physique and with low mortality. A people who undauntedly have taken up the fight against a barren and poor soil, a fight against sand and a hard, raw climate and who have conquered in the fight. A people where knowledge ranks high and illiteracy is unknown, the scattered country schools could stand as a fine model for any nation. It was among those people that the co-operative idea was given birth in Denmark and which became the lever by means of which Danish agriculture was lifted high and placed in the front van of progress so that to-day the little kingdom according to so eminent an authority as the United States commissioner of immigration, Mr. F. Howe, stands as a model to the rest of the world in social progress. Another remarkable fact is that in Denmark, which has compulsory military training, the rate of alcoholism among army recruits is the lowest in the world, as stated by the American army surgeon, Munson. And yet those people are what Mr. Hunter and Dr. Fisk would call heavy drinkers. I am far too careful to place cause and effect and to assert in line with the Hunterian style of logic that alcohol is the cause of this progress. In fact, I should rather say that the heavy consumption of alcohol is the effect of longevity and vitality rather than the cause of high

mortality. We meet here again the correlated forces of 'balancement organique.' The strong, virile race craving a stimulant. Take it away from the population and what will happen? Local option, a highly commendable principle, has indeed made progress in Denmark of late years, although not to the drastic extent of forbidding the sale of slightly alcoholic beers, which in fact are sold to and consumed in increasing quantities by total abstainers all over Scandinavia. Malt beverages in some form or other are still the remedy for thirst in Denmark instead of the insidious ice water. Not even the most rabid prohibitionist in Denmark would for a moment consider the thought of prohibiting the manufacture and sale of slightly alcoholic beers.

"If prohibitionist politicians should succeed in barring alcohol they can by no means hope to curb nature or to change even in the slightest degree the biological forces underlying the principle of 'balancement organique.' In the fight between nurture and nature, nature always comes out the victor. Strong people will crave and will get stimulants, mostly for psychological effects, and the question is whether they may not turn to stimulants or narcotics having a more insidious effect than that of alcohol if the sale of this latter article is prohibited. This side of the question has completely been left out by the narrow attitude taken by actuaries who as a rule have little or no real knowledge of biometry."

In regard to the alleged hereditary effects on children of alcoholic parents, Mr. Fisher has this to say: "I think that the fallacy of the alleged hereditary influences of alcohol on the offspring have been so thoroughly exposed and ridiculed by Pearson that in looking for an indicator of virility among nations it seems to my mind to be an advantage rather than a drawback or curse if a particular country has a high rate of consumption of alcoholic beverages."

From these quotations it is not to be inferred that Mr. Fisher is hostile towards a true temperance movement. A passage as follows will show his true stand:

"The fight against alcohol ought not to be carried on in a spirit of subjugation. Taken in moderate quantities alcohol has

to all appearances a beneficial psychological effect in making people light-hearted and optimistic. Taken to excess it admittedly causes ravages just as well as religious fanaticism causes much harm. It is against the excesses that the fight should be directed, against the low-class saloons and gin mills."

"The breweries in America have in many cases pursued a poor policy in supporting low-class saloons to the detriment of the better class of public taverns and their own interests. Much could be gained if brewers actually would refuse to sell their products to the low class of taverns where alleged democratic fellowship is a cover for filth and debauchery. The great Anheuser-Busch Brewing Co. of St. Louis is on the right track of reform in its attempt to limit the number of saloons and place them on a status more nearly equal to that of the Continental beer garden or café."

Perhaps one of the most thoughtful passages on the question is found in the Danish mathematician's remarks on "*belief in authority*."

"One of the most woeful defects in the mental attitude of the American college student," is to Mr. Fisher's mind, "his lack of training in independent thinking. He falls back on authority. This, of course, is sometimes unavoidable, but if it becomes a habit, as is often the case in many American institutions of learning, the unsuspecting and trusting student reader becomes the easy prey of many a guileful self-styled authority. It is not authority, not other people's belief, but self-study and independent research that brings the truth to light. In this period of so-called 'sociological science' I should like to see Galileo's beautiful words: *In questions of science the authority of a thousand is not worth the humble reasoning of a single individual*, chosen as the motto of every serious-minded student of statistics."

SOME STATISTICAL CURIOSITIES

Some curious examples of the misuse of statistics are to be found in the current issue (1916) of the Anti-Saloon League Year Book, of which Mr. Ernest H. Cherrington is the compiler and editor.

"Writing," says Bacon, "maketh an exact man," by which, doubtless, the great philosopher meant to convey the thought that a person who intended to put himself on record in black and white, would display a tendency at least to regard the truth. Not so, however, the compiler of these tables for the Anti-Saloon League Year Book. While they might impress the casual reader, and while, undoubtedly, they are being used to delude those who listen to prohibition oratory throughout the country, they are distinguished by almost all the faults which the conscientious statistician seeks to avoid in his work. That is to say, they are inaccurate in part, they are insufficient in scope, they are inequitable in arrangement, and they are deceptive as a whole. It were sheer euphemism to ascribe such a performance to inexperience or ignorance.

For purposes of illustration it is necessary to insert bodily one of the series of tables which Mr. Cherrington has constructed, the captions as well as arrangement being all his own:

MANUFACTURES IN THEIR RELATION TO PROHIBITION AND LICENSE

THE PROHIBITION STATES PRIOR TO JANUARY 1, 1915

State	Average No. Wage earners 1909	Per cent Increase in 10 years	Value of Products 1909	Per cent Increase in 10 years
Georgia	104,588	25.5	202,863,000	114.6
Kansas	44,215	63.0	325,104,000	111.1
Maine	79,955	14.4	176,029,000	55.8
Mississippi	50,384	88.0	80,555,000	138.9
North Carolina	121,473	68.0	216,656,000	154.1
North Dakota	2,789	105.4	19,137,000	205.7
Oklahoma	13,143	452.0	53,682,000	560.0
Tennessee	73,840	60.7	180,217,000	94.3
West Virginia	63,893	93.1	161,949,000	141.7
Total	554,280	53.0	1,416,192,000	116.3

THE 1916 YEAR BOOK OF

THE NEAR-PROHIBITION STATES

States in each of which more than 50 per cent of the population was under prohibition prior to January 1, 1915

State	Average No. Wage earners 1909	Per cent Increase in 10 years	Value of Products 1909	Per cent Increase in 10 years
Alabama	72,148	36.9	145,962,000	102.4
Arkansas	44,982	42.7	74,916,000	87.8
Colorado	28,067	43.9	130,044,000	46.0
Florida	57,473	62.0	72,890,000	113.2
Idaho	8,220	429.6	22,400,000	646.0
Indiana	186,984	34.5	579,075,000	71.8
Iowa	61,635	38.8	259,238,000	95.1
Kentucky	65,400	26.4	223,754,000	76.9
Louisiana	76,165	86.3	223,949,000	101.8
Minnesota	84,767	31.3	409,420,000	83.0
Nebraska	24,336	30.4	199,019,000	52.7
New Hampshire	78,658	16.3	164,581,000	53.0
South Carolina	73,046	55.3	113,236,000	112.3
South Dakota	3,602	62.0	17,870,000	87.5
Texas	70,230	81.9	272,896,000	193.8
Vermont	33,788	19.9	68,310,000	32.6
Virginia	105,676	59.6	219,794,000	102.3
Total	1,075,177	43.3	3,197,354,000	85.6

THE PARTIALLY LICENSE STATES

States in each of which more than 25 per cent but less than 50 per cent of the population was under prohibition prior to January 1st, 1915

State	Average No. Wage earners 1909	Per cent Increase in 10 years	Value of Products 1909	Per cent Increase in 10 years
California	115,296	49.3	529,761,000	105.8
Delaware	21,238	3.3	52,840,000	27.9
Illinois	465,764	39.9	1,919,277,000	71.2
Maryland	107,921	14.6	315,669,000	49.6
Massachusetts	584,559	33.4	1,490,529,000	64.2
Michigan	231,499	48.6	685,109,000	114.3
Missouri	152,993	42.0	574,111,000	81.5
Ohio	446,934	45.1	1,437,936,000	92.1
Oregon	28,750	98.8	93,005,000	145.2
Utah	11,785	117.7	61,989,000	244.7
Washington	69,120	119.3	220,746,000	211.7
Wisconsin	182,583	32.8	590,305,000	80.7
Wyoming	2,867	39.2	6,249,000	91.2
Total	2,421,309	40.3	7,977,526,000	82.2

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THE LICENSE STATES

States in each of which less than 25 per cent of the population was under prohibition prior to January 1, 1915

State	Average No. Wage earners 1909	Per cent Increase in 10 years	Value of Products 1909	Per cent Increase in 10 years
Arizona	6,441	106.0	50,257,000	145.9
Connecticut	210,792	32.0	490,272,000	55.6
Dis't of Columbia ...	7,707	25.2	25,289,000	54.0
Montana	11,655	18.3	73,272,000	38.9
Nevada	2,257	347.8	11,887,000	842.7
New Jersey	326,223	52.5	1,145,529,000	107.1
New Mexico	4,143	66.4	7,898,000	94.5
New York	1,003,981	38.1	3,369,490,000	80.0
Pennsylvania	877,543	32.2	2,626,742,000	59.2
Rhode Island	113,538	28.7	280,344,000	69.3
Total	2,564,280	36.7	8,080,980,000	73.7

The purpose is unquestionably to show that the prohibition States are going ahead much more rapidly than any others, and that the progress of the other States is in large degree commensurate with their restriction of the liquor traffic. We have Mr. Cherrington's own word for this. He says:

"The above tables go to show that the States which are taking advance ground on the question of prohibiting and repressing the liquor traffic are as a rule the progressive States from the standpoint of business activity, especially as regards manufactures. The figures given in these tables are for the year 1909, and show the increase in the average number of wage earners and the value of products for the ten years ended 1909, in the States under prohibition and near-prohibition States, the partially license States and the license States prior to January 1, 1915."

The figures which Mr. Cherrington employs are to be found in the Statistical Abstract of the United States and were compiled by the Federal Census Bureau in its census of manufactures, taken in

1909. In order to bolster up the claim that prohibition was responsible for large increases in the respects indicated, Mr. Cherrington includes one State which had not thought of adopting prohibition at the time the census in manufactures was taken, and several which had adopted it so recently that it could have had practically no effect upon their economic situation.

West Virginia, which did not adopt prohibition until 1914, is represented by Mr. Cherrington to have vastly increased her average number of wage earners and the value of her manufactured products, according to statistics compiled five years previously. North Carolina and Tennessee, which adopted prohibition in 1909, and had been under its operation only a few months when the census on manufactures was taken, are likewise included, as well as Georgia and Oklahoma, both of which adopted prohibition in 1907, and Mississippi, which did not adopt it until 1908.

The deliberate dishonesty of this method of presenting statistics is so palpable that it would seem to require no further comment. Mr. Cherrington would have it appear that the prohibition States showed an increase in ten years of 53 per cent in the average number of wage earners, and 116.3 per cent in the value of manufactured products, in the decade from 1899 to 1909, as against an increase of 43.4 per cent in wage earners, and 85.6 per cent in the value of manufactured products, for the "Near-Prohibition" States, 40.3 per cent in the average number of wage earners, and 82.2 per cent in the value of manufactured products, for the "Partially License States, and 36.7 per cent in the average number of wage earners, and 73.7 per cent in the value of manufactured products for the "License States."

Now if we remove West Virginia alone from the column of prohibition States, we find that the per cent of increase in wage earners in the ten-year period sinks to 50.5, and the per cent of increase in the value of manufactured products sinks to 113. If we remove North Carolina and Tennessee, as well as West Virginia, we find that the per cent of increase of wage earners sinks to 40.6, and the per cent of increase in the value of manufactured products sinks to 97 per cent. If we further also exclude Mississippi, Oklahoma and Georgia from the table, we find that the per

cent of increase in wage earners sinks to 30.5, and that of the increase in value of manufactured products to 90.

Further, it may be remarked that the employment of the percentage system in such a matter is quite likely to be misleading. For instance, the State of Nevada, a license State, made by far the greatest advance in percentage value of manufactured products in the decade in question, and was third in percentage increase in the average number of wage earners. But when it is stated that the total value of Nevada's manufactured products in 1909 was but \$11,887,000, and the total average number of wage earners in that year but 2,257, it can be readily realized that this mode of illustration has no value at all, except possibly as a means of deception.

Looking again at Mr. Cherrington's table, and comparing it with the figures to be found in the Statistical Abstract, it will be observed that New York, a license commonwealth, in the ten-year period in question, increased the value of its manufactured products from \$1,871,831,000 to \$3,369,490,000, a gain of \$1,497,659,000. The gain in this single license State is more than the total value of the manufactured products in all the States which Mr. Cherrington has placed, a number of them very improperly, in the column of prohibition. The little State of New Jersey, which the Anti-Saloon League is fond of representing as the "blackest on the map" of the Union, because it has no "No-License" territory, increased the value of her manufactured products in the ten-year period from \$553,006,000 to \$1,145,529,000, a gain of \$592,000,000, or 107 per cent. The gain in New Jersey represents more than the total value of manufactured products of any two of the so-called prohibition States, and the total value of her manufactured products is equivalent to more than three-fourths of the total value of the manufactured products of all the States in Mr. Cherrington's prohibition column.

In another table Mr. Cherrington attempts to discuss the increase in wages paid to labor in prohibition and license States. He shows that in what he terms the Prohibition States the total wages paid in 1899 aggregated \$109,385,000, and in 1909 \$221,742,000; and in what he terms the Near-Prohibition States the total wages

paid in 1899 aggregated \$281,611,000, and in 1909 \$497,725,000; while in the Partially License States the wages paid in 1899 aggregated \$764,282,000 and in 1909 \$1,334,682,000; and in the License States the wages paid in 1899 aggregated \$852,993,000, and in 1909 \$1,373,889,000. He says: "The above comparative tables show that in the Prohibition States the amount of wages paid to labor increased in ten years to 103 per cent; in the Near-Prohibition States 77 per cent, in the Partially License States 75 per cent, and in the License States 61 per cent. These figures are complete refutation of the oft-repeated campaign declaration that the adoption of prohibition in any State injures the laboring man."

It may be suggested that the figures shown contain refutation of nothing of the kind, for Mr. Cherrington has again included in the prohibition column States that were not under that system, or had been under it only for short periods, when the Federal Census Bureau compiled its statistics on manufactures. Furthermore, the largest individual percentage increases in this table are exhibited by States which were decidedly not in the prohibition column prior to January 1, 1915.

In another set of tables Mr. Cherrington presents increases in capital invested in manufactures in prohibition and license States, showing that in the prohibition States the percentage increase was 163.2, in the Near-Prohibition States 127.5, in the Partially License States 112.1, and in the License States 86.1. He remarks that this disproves the claim that prohibition injures business and frightens capital away, and further makes the bald statement that the increase in capital invested in manufactures in the nine prohibition States was almost twice as large as in the nine license States. Of course this statement is made out of the whole cloth. Only by improperly including a number of States which had had no, or a very limited, experience with prohibition at the time the census figures were compiled, is even the percentage increase sustained. When we come to examine the actual aggregates, we find that the State of New York alone, in 1899, had \$1,523,503,000 invested in manufactures, and that in 1909 it had \$2,779,497,000, and that its gain in this particular decade was \$1,255,004,000, or more than \$35,000,000

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in excess of the total capital invested in what Mr. Cherrington would have us believe were prohibition States in 1909.*

Mr. Cherrington also attempts to deal with the question of crime and liquor, and presents some tables showing sentenced prisoners in State penal institutions, according to the census for 1910. He again places West Virginia, which was not under prohibition until four years later, and other States which had had but a limited experience with the system, in the prohibition column, and figures that the number of sentenced prisoners according to his groupings, was as follows:

Prohibition States	117.2%
Near-Prohibition States	114.1%
Partially License States	126.7%
License States	130.5%

Of course the value of these tables as prohibition argument is destroyed by the circumstances already commented upon, but they are so weak in other respects that Mr. Cherrington feels called upon to apologize for the very large number of sentenced prisoners shown in certain prohibition States, explaining that the prohibition law was not well enforced therein, and further remarking that "a drunken man in Atlanta would be promptly arrested, while under the policy in Milwaukee he would be put on a street car and sent home." Until documentary evidence to establish it is received, this particular statement of Mr. Cherrington's may well be taken *cum grano salis*.

It is of course well recognized, though Mr. Cherrington does not trouble to mention it, that convictions for crime are affected by a number of circumstances having no relation to liquor. In the older States, for example, there are more crimes under the law than in the new. New York makes it a serious offence to have in possession a revolver, and many convictions have been had under this statute which has no exact counterpart in any other State. Offences against health, building and factory, and even of traffic

* Since this article was put in type the Census Bureau has issued a bulletin giving the results of the Census of Manufacturers taken in 1914, with comparisons. It shows that Kansas experienced a marked decline in industrial activity between 1909 and 1914. The number of manufacturing establishments fell off from 3,435 to 3,136; the average number of wage earners from 44,215

regulations rise to the dimensions of misdemeanors in commonwealths containing large industrial communities. Again the avenging of personal wrongs by violence has ever been condoned more or less in certain sections. Finally, certain classes of criminals, naturally, seek the great cities in order to ply their trades. The enterprising burglar, the fraudulent promoter and others of their ilk flock to the centers of population, not for liquor but for loot.

Statistics of crime are neither complete nor comprehensive enough to establish much basis for comparison. An interesting study in the *Spectator* (December, 1915) of homicide, published by Frederick L. Hoffman, one of the most distinguished statisticians in the United States, is, however, very significant in showing that the taking of human life is far more common relatively in the cities of prohibition States than in other municipalities. Mr. Hoffman gathered his figures from all important cities where satisfactory records were kept, and a table prepared by him exhibited the records for one year and for a decade as shown on the following page.

Memphis and other southern prohibition cities seek to excuse their bad records by pointing to their large negro populations, but New Orleans, license, with this factor in at least equal proportion, and in addition a great sea port, thronged with transients of all nations and races, makes a much better showing. New York, which is commonly pictured as a sink of iniquity by prohibitionists, is well towards the bottom of the list, and the very best records in the country are presented by Newark, N. J., and Milwaukee, Wis., both of which are distinguished by liberal drink regulations.

Mr. Cherrington exhibits tables on "Insanity and the Liquor Problem," "Pauperism and the Liquor Problem," and "Education and the Liquor Problem," and also says something statistically about their homes owned free and clear in prohibition and license States. Of these, it may be remarked that they are also striking examples of empirical reasoning and forced statistics. Indeed, none of the

to 41,259; the primary horse power employed from 213,141 and the value of products from \$325,104,000 to \$323,234,000. Mississippi, also prohibition, showed a decrease not as pronounced as that of Kansas in the value of products, and Rhode Island, license, with a very slight decrease, was the only other state in the union which did not exhibit a growth in manufactures in the five-year period.

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CITIES	1904-1913		1914			
	Homi- cides	Rate per 100,000 Popu- lation	Homi- cides	Rate per 100,000 Popu- lation	DIFFERENCE IN THE RATE	
					Actual	Per Ct.
Memphis, Tenn.....	808	63.7	103	72.2	+ 8.5	13.3
Charleston, S. C.....	191	32.7	20	33.3	+ 0.6	1.8
Savannah, Ga.....	180	28.4	12	17.3	-11.1	39.1
Atlanta, Ga.....	377	26.9	58	32.1	+ 6.1	23.5
New Orleans, La.....	837	25.3	79	22.0	- 3.3	13.0
Nashville, Tenn.....	257	24.3	38	31.1	+ 6.8	28.0
Louisville, Ky.....	366	16.6	44	19.0	+ 2.4	14.5
St. Louis, Mo.....	867	12.9	117	16.0	+ 3.1	24.0
San Francisco, Cal.....	389*	11.8*	60	13.4	+ 1.6	13.6
Cincinnati, O.....	393	11.0	46	12.1	+ 1.1	10.0
Chicago, Ill.....	1,955	9.3	217	9.1	% 0.2	2.2
Seattle, Wash.....	174	8.1	35	11.7	+ 3.6	44.4
Spokane, Wash.....	74	7.8	17	12.9	+ 5.1	65.4
Washington, D. C.....	244	7.5	29	8.2	+ 0.7	9.3
Cleveland, O.....	328	6.1	40	6.3	+ 0.2	3.3
Manhattan and The Bronx, N. Y.....	1,606	6.1	186	6.1	0.0	0.0
Dayton, O.....	62	5.5	7	5.4	- 0.1	1.8
Pittsburg, Pa.....	279	5.3	30	5.3	0.0	0.0
Providence, R. I.....	112	5.2	15	6.1	+ 0.9	17.3
Boston, Mass.....	310	4.8	25	3.4	- 1.4	29.2
Baltimore, Md.....	252	4.6	44	7.6	+ 3.0	65.2
Brooklyn, N. Y.....	695	4.5	94	5.1	+ 0.6	13.3
Philadelphia, Pa.....	638	4.2	76	4.6	+ 0.4	9.5
Buffalo, N. Y.....	166	4.0	24	5.2	+ 1.2	30.0
Minneapolis, Minn.....	106	3.7	19	5.4	+ 1.7	45.9
Reading, Pa.....	33	3.5	1	1.0	- 2.5	71.4
Rochester, N. Y.....	68	3.3	4	1.6	- 1.7	51.6
Hartford, Conn.....	29	3.0	7	6.6	+ 3.6	120.0
Newark, N. J.....	98	3.0	21	5.3	+ 2.3	76.7
Milwaukee, Wis.....	87	2.4	22	5.2	+ 2.8	116.7
Total for 30 cities.....	11,981	7.9	1,489	4.6	+ 0.7	8.9

* Exclusive of 1914 and 1901.

arguments used to bolster up prohibition has less validity than that purporting to show the undue preponderance of insanity in places where license prevails, as compared with those where liquor is under the ban. The argument could only have force if a direct positive relation could be established between insanity and drink. Any alien-

ist can corroborate the fact that the causal relation has never been proved except in a very limited and special sense.

The folly of attributing insanity to alcoholism as a general cause can be illustrated by referring to the number of women who are annually placed in asylums. In 1910 the male insane admitted to such institutions was 72.1 per 100,000 male population, as against female admissions of 59.7 per 100,000 female population. It would be difficult to get any one to believe that a majority, or even a large minority of these women, were given to the excessive use of liquor.

Again, it is well understood that the number of inmates of public asylums does not indicate the actual number of insane in the community so much as it reflects the character and extent of public provision made for such unfortunates. In most States where the ratio of insanity appears to be low, public facilities for the treatment and accommodation of deranged persons are wholly inadequate. A comparison on this point of the State of New York with the States of Georgia, Mississippi, North Carolina, Tennessee, West Virginia, etc., would seem to be intentionally misleading.

New York does, indeed, on the basis of asylum population, exhibit a greater proportion of insane than the other States mentioned, but any one who gives the matter thought would not for an instant believe that these had anything like the asylum facilities of the Empire State, or enforced anything like as severe a system of confining deranged persons. Further, the conditions of modern life in great cities, the enormous stream of immigration and other circumstances, which readily occur to the mind, combine to give New York an undue proportion of insane. It would seem to be more reasonable to compare States which are somewhat similar in geographical location, character of population, principal industries and the like.

If, for instance, we take Kansas, we find that she has a larger ratio of insane admitted to hospitals in 1910 than either Nebraska or South Dakota; indeed, her ratio is about equal to that of Pennsylvania and larger than that of Indiana. Is this because Kansas has been prohibition for a number of years and these other States have been under the license system? Why should Utah, New Mexico, Texas and Louisiana, all under a license system up to date, show a smaller proportion of admissions to asylums in 1910 than

Maine, North Carolina, South Carolina and Georgia, and some of the so-called "Near-prohibition" States? Arkansas for many years has had the smallest ratio of insane admissions to hospitals; the explanation does not lie either in the fact that Arkansas was for many years under the license system, or that quite recently she adopted prohibition. The real reason is that her public asylums simply have not cared and could not care for the insane of the State, and that to find a great majority one would have to search through the almshouses, private families and the by-ways and hedges of the Commonwealth.

If the method with respect to insane asylum inmates, which Mr. Cherrington adopts for the purpose of finding prohibition arguments, should be applied to the feeble-minded, we would make the astonishing discovery that in some of the southern prohibition States there are absolutely none of this class of persons. Of course this is not true. The fact is that these particular States have not developed far enough to care for the feeble-minded in special institutions.

The assumption that, because in a number of States there are areas where no liquor is permitted to be sold, the residents thereof do not consume liquor, has something very comical about it. One illustration will serve to show how grotesque a theory this is. The city of Boston is surrounded by a belt of "No-License" municipalities whose aggregate population is almost, if not quite, equal to that of the Massachusetts metropolis itself. These towns, for their own reasons, have chosen to forbid the sale of liquor within their corporate limits, but their residents have every facility for purchasing such beverages in Boston and sending it to their homes—a custom which a visitor among them would find to be quite the rule. Further, they are quite enthusiastic patrons of the Boston drinking places, and the police statistics of that city show that a majority of the arrests for drunkenness are of persons hailing from the suburban communities in the immediate neighborhood.

Mr. Cherrington also falls into error, to use a charitable phrase, when he attempts to deal with pauperism. It is well known that in order to make reasonable comparisons in this particular it is necessary to show the difference in laws, the manner in which the laws

are executed, the amount and character of provision made for pauper charges, as well as other factors. Mr. Cherrington broadly compares the ratio of inmates of almshouses, disregarding the fact that in many communities the old method of herding such unfortunates together in special institutions has been abandoned. How absurd and misleading are some of the statistics he produces may be shown by the fact that in 1910 there were more paupers in proportion to population in almshouses in Kansas than in South Dakota and Minnesota, and a much larger proportion in Maine and North Carolina, and in other States, for instance Tennessee. License States, such as Florida and Louisiana, show a smaller ratio of paupers than the prohibition and near-prohibition States mentioned. The official report containing the figures which Mr. Cherrington quotes makes the following observation:

"These differences between divisions (geographical) are due in part to the character and density of the population of the different sections, but the laws and the customs of the different communities in regard to the treatment of paupers are probably a more important factor in the situation. In some States the laws are strict in requiring that, except in special cases, all persons receiving public aid be cared for in almshouses; in others the authorities are given considerable discretion in furnishing temporary outdoor relief. In some States, furthermore, almshouses are frequently used as hospitals for the poor, which would increase the number of temporary inmates. * * * The relative number of paupers in a State depends on so many considerations that no conclusions as to the prevalence of poverty can be drawn from the figures."

Mr. Cherrington is again unconvincing when he takes up the question of schools, etc. License States, such as Massachusetts, Connecticut, and Minnesota, to mention only a few, show a really smaller proportion of illiterates than any state which in 1910 was under prohibition. To argue that the percentage of illiterates depends on the method of regulating the liquor traffic is not only absurd, but works a great injustice to certain prohibition States with a preponderance of illiterate whites, which is due to causes absolutely remote from the liquor question.

Finally, as to the attempt to show that more homes are owned

free and clear in prohibition States than in license States, it must be obvious that the regions in which great industries have been established and in which tremendous cities have grown up will show a smaller proportion of such freeholds than those which are sparsely populated, and whose chief calling is agriculture. That is quite in the nature of things. But if this observation should not be well founded, Mr. Cherrington's argument can be easily upset in another way. Kansas, which has been under prohibition law for something like forty years, has a smaller proportion of owned homes, free and clear, than Nebraska, which has been under license for almost the same period. This, using Mr. Cherrington's method of deduction, would absolutely demonstrate the evil effect of prohibition.

It is possibly significant that in Anti-Saloon statistics, the grouping system is almost invariably employed, though, as is well known, but one of our States has had a really extended experience with prohibition. Maine adopted the system before the Civil War and has adhered to it consistently and persistently since, and should exemplify all the progress materially, the advancement morally, that are claimed to follow this manner of dealing with the drink problem. But the prohibitionists are singularly averse to having attention directed to Maine. Perhaps there's a reason.

"A FEW THOUGHTS AND A SUPERFLUITY OF WORDS"

(Editorial in *Interstate Medical Journal*, June, 1916)

Readers of medical journals and of those literary (?) journals that tamper with medical subjects in the hope of increasing the number of their subscribers, so great, indeed, is the desire on the part of the public to know enough of medicine to make modern conversation a lugubrious affair, must have been startled, perhaps amused, by the large number of articles of all shades and meanings on the subject of alcohol and the narcotics, meaning by the latter tea, coffee and tobacco. What their inferences have been we do not know, but if they had a normal brain—as normal as is possible in this imperfect world, we are quite sure that they would agree with us that their readings have led them nowhere but into chaos—a chaos so dark and labyrinthine that only a large quantity of alcohol or one of the narcotics could bring on a complete forgetfulness of the futility of their efforts to see light where only Egyptian darkness prevails. One writer gifted with a vivid imagination, a facile pen, and a fanaticism that has been nurtured with care from weakling into a forbidding giant, pounces on coffee because coffee has once upon a time upset the intricate mechanism of his abused stomach, just as carrots or a more aristocratic vegetable might have done. Another sees destruction of the human race even from a slight indulgence in tea, a third levels his battering-ram at tobacco, a fourth is enamored of tea and coffee, even of tobacco, but pronounces alcohol the arch enemy of human happiness. They come, these articles, in avalanches; at times, when the authors are exhausted, in twos and threes; but this does not happen so often that we can say with considerable assurance that the well from which they draw their varied knowledge will soon run dry. All that they need, it would seem, is a theory, and then heigh-ho for a mad ride, a gallop, a hurdle race, a double somersault, and great is the joy of the reader if the writer falls on a soft cushion, for unbroken bones means

another article on the same lines next month and a fresh stimulus to the chaotic and lugubrious drawing-room talk!

What we have just written may strike the reader as too flippant for a medical journal that makes some pretense to seriousness, but in explanation of our attitude let us make it clear to the reader that under our frivolous exterior we are very serious indeed, in fact, almost tragical. A man has been known to laugh when his thoughts were melancholy; and while we hasten to assure the reader that melancholia is not sitting on us so unshakably that its talons cannot be loosened from our mentality, we must confess that the problem of alcohol and tea, coffee and tobacco, as presented to us in most medical journals with the masterly attempts at explanation and solution, is a very disturbing one and at times makes our thoughts so brown that in the dusk of evening they might be mistaken for black. And who in his right senses would not be affected in the same manner by the multitudinous theories and the vapid reasonings? It is not that the author has no lucid moments when he hauls the narcotic he thinks the most baleful one to the gallows to be hanged amidst his intense derision and denunciation; to say this would be carrying our prejudices too far. He undoubtedly has his lucid moments, and due credit should be given him for them; but where he errs is in letting his personal feelings dominate the sanity of what should be his thought, if he hopes to achieve results with his readers. The personal note is a good quality, if not carried too far, in articles of a purely literary nature, but in a medical article it should be suppressed and, especially, should the leashes that hold it in check be taut opposite the problem of alcohol and those narcotics which are on our table daily and which have become through custom or habit part and parcel of our existence.

That the attack on the use of alcohol and tea, coffee and tobacco should each year have more and more enthusiastic upholders may at first seem to those who have not given the matter much thought as evidence that the deleterious qualities of these stimulating "foods" are proved beyond a doubt. That this is not the case in a scientific sense is the fact that our knowledge, based on science, is still in that embryonic stage where doubt creeps in as to whether the experiments now in progress in the laboratories are really applicable to

man. What is undoubtedly true, and this is not knowledge gleaned from any experiments effected in the laboratory, is that the injurious qualities of the stimulants which are to-day under the ban of adverse criticism are altogether due to an over-indulgence, which so long as human creatures are human, too human, will obtain in many instances. The man who can take one drink has arrived at that enviable stage in his education when he knows how to relax, and the man who can drink one cup of tea or coffee, or smoke occasionally, and then hold his desire for more in check, is the possessor of a judgment that is of benefit to him. If the stimulants we have mentioned are swarming with those death-dealing qualities with which the writers say they are, then a very limited quantity of each would be a poison. But this is not true, since in too many instances the sane use of them results in a physical and mental relaxation that has nothing objectionable about it or harmful to the system, except in the thought of some easy-chair philosopher whose mind, bathed in the turbid waters of puritanism, is unaware that modern civilization has declared that all human beings should be machines whose wheels must revolve despite considerable grating.

In the various social movements which are at present doing effective work in this country, there is a tendency, due perhaps to over-enthusiasm, to preach too intensely the gospel of Uplift. Directly a member of any organization becomes aware that a number of people are not of his exalted opinion and have not lived his life, he thinks a field has been opened up for his propaganda work, and the personal note is thrust into his endeavors to so great an extent that he loses all idea of what constitutes a judgment out of which might possibly issue some benefit to mankind. He may be a good man in every conceivable sense of the word, but if obliquity warps his point of view—and obliquity is the one great danger that is a continual menace to his sane outlook—he is a bad preacher. Physicians are not exempt from this charge, for they, too, have at times been guilty of falling into the error of condemning all forms of relaxation that do not appeal to them. Not being athletes—and who by the way would employ an athletic physician?—they inveigh against athleticism: sometimes it is true for medical reasons which cannot be questioned, at other times because they think their pills

or powders a better tonic; and not being, as a general rule, given to the habit of spending their office hours in saloons, they too often see only one side of the alcohol question—the drunkard. As regards smoking they are more lenient, but here again, when they join the ranks of uplifters, they shout as loud as the others, though it must be said that they succeed in making headway more readily than do those who are not physicians, since nothing succeeds so well in propaganda work as a superficial or deep injection of science into “talks” for the people.

A witty Englishman has recently said that Americans are altogether too much given to the art of intestinal gardening; by which he meant that we paid too much attention to our stomachs and, let us hope, he also meant our bowels. And though there may be a degree of exaggeration in the statement, is it not a fact that we are continually suppressing a natural desire for natural food and substituting something “just as good” which has been created through the ingenuity of some enterprising manufacturer? Think of the “foods” with which this country is flooded that are credited with virtues over those of meat and vegetables! And think of the “drinks” that have been thrust upon us to take the place of the alcoholic beverages! Yes, indeed, the cult of intestinal gardening is with us; but let us hope the time is far distant when the ingenuity of the manufacturer will give birth to a cigar or cigarette that will have none of the toxic qualities of which we hear so much nowadays, but only supernal virtues to a mixture of alfalfa and liquorice.

P. S.

HOW A MINORITY MAY RULE

(Louis N. Hammerling in *The American Leader*, Dec. 28, 1916)

When the Constitution of the United States was framed it was with the distinct idea of forming a federation of sovereign states. The idea of a nation grew up gradually afterwards and was not firmly established until after the Civil War. The Constitution bears significant marks of the federal idea as distinguished from the national, the most noteworthy features, perhaps, being the composition of the Senate by an equal number of representatives of each state regardless of population, and the provision for amending the Constitution on a similar basis, that is, by the equal votes of the several states regardless of population.

Against one of these federal and aristocratic features of our Constitution, intended to restrain the direct influence of the people upon some of the most important political concerns, a sentiment of opposition has been gradually developing and has found partial expression in the election of United States Senators by direct vote of the people instead of the former plan of election by the legislatures of the states. This democratizes the United States Senate to the extent of bringing the office of Senator closer to the people and subjecting it to their direct action in the state. But while thus expanding the scope of democracy within the state it fails to carry out a corresponding expansion in the nation.

As to the other feature, the growing spirit of democracy has been unable to accomplish anything up to the present time. The national idea has not yet found expression here; the federal idea still remains dominant. It is still possible for a minority of the people of the United States to change the Constitution of the United States against the will of a great majority.

The adoption of an amendment to the Constitution of the United States, after passage by Congress by a majority of two-thirds, must be ratified by three-fourths of the states of the Union in order to

become part of the Constitution. Not by three-fourths of the *people* of the *nation*, but by three-fourths of the *number of states*.

According to the census figures for January 1, 1917, there are eighteen states with a total population of 10,090,585, viz.: Arizona, Colorado, Connecticut, Delaware, Florida, Idaho, Maine, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont and Wyoming.

The state of New York has a population of 10,366,778, which is 276,193 more than the eighteen states put together.

In voting on the ratification of an amendment to the Constitution of the United States these states would cast eighteen votes to New York's one.

Add to the states above enumerated the following: Alabama, Arkansas, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, Washington, West Virginia and Wisconsin. We would thus have thirty-six states, whose votes would be enough to ratify the amendment.

The total population of these states is 45,670,009. The population of the United States is 102,826,309. Thus 45,000,000 people could outvote 57,000,000. In reality it is worse. The legislatures in many states might be controlled by a minority party, particularly in the present state of party disorganization. It might thus come to pass that less than 16,000,000 people, or a little over one-third of the 45,000,000 referred to—somewhat over one-sixth of the total population of the country—would modify the Constitution of the United States against the positive desire of the vast majority of the people. This is an extreme supposition, but it serves to illustrate the inherent unfairness of the present condition.

It is clear that in this point the modern democratic trend has not yet made itself felt. Neither has the national idea found expression here. If the United States is a nation—if we are justified in saying "the United States *is*" and are not obliged to say "the United States *are*"—then the people of the United States ought to vote as a unit on changes in the Constitution. The preamble of the Constitution says that "We, the people of the United States, do ordain and establish this Constitution for the United States of America." Is this

true in the present condition? Would not an amendment, becoming part of the Constitution and therefore part of that which "we, the people of the United States, do ordain and establish," if adopted in this manner, give the lie to the terms of the preamble?

The elections of last November show that, generally speaking, prohibition is a policy that is favored by rural communities in the West and by the Southern states which have the negro problem to consider. These are the sparsely settled states whose problems are in some respects different from those of the populous industrial states. It is on a big scale a relation similar to that found within some states, where the rural districts favor prohibition while the city populations will have none of it. In many cases of this sort prohibition is forced upon the cities by the votes of the country districts does not take account of population, and the result is that in the legislatures it is acres that are represented rather than people.

By this method the city populations have been subjected to a policy which few of them approve. Their personal liberty has been taken away and they have no remedy.

It may be true that many people will vote for state prohibition who would not vote for national prohibition, because they do not want to deprive themselves of the opportunity to secure supplies from without their states, and that therefore the theory of the prohibitionists that the prohibition states can be counted upon to support an amendment for national prohibition, will not work out. But we are at present unquestionably confronted with a situation that threatens a majority of the people with a serious abridgment of their liberty through the votes of a minority. If the American people, as one unit, could vote on the proposition, there would probably be little danger of its adoption, for the liberal voters, who are, for the most part massed in the industrial states, would be able to defeat it. But in the present state of things the state of Nevada with 100,000 population will have as much to say about the matter as the state of New York with 10,000,000 population. The glaring injustice of such a plan is well visualized by a glance at the prohibition map of the country. It amounts to disfranchisement for millions of voters in the most important affairs that can come before the people, namely, the organic law of the land.

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If a prohibition amendment should carry, it would open the door for many other restrictions of personal liberty. It is quite well understood that prohibition is to be but the entering wedge, that other restrictions are to follow, that back of it lurks the danger of domination by certain religious denominations and by a handful of fanatical reformers to whom liberty is as nothing compared to the realization of their perverted notions.

LOCAL OPTION IN THE UNITED STATES

By Philip A. Boyer*

(In the *National Municipal Review*, October, 1916)

EDITORIAL NOTE: Considerable unrelated data relating to the application of the principle of local option having come into the hands of the Editor, he consulted with Prof. J. P. Lichtenberger, of the University of Pennsylvania, as to an available man among his graduate students to complete and correlate it. Mr. Boyer was the man recommended. He entered upon the study of the problem involved without any predisposition or bias. The conclusions are his own, and the Editor did not know what they were until the manuscript was handed to him. It may seem somewhat out of the ordinary to make such an explanation, but it is due to the readers of the NATIONAL MUNICIPAL REVIEW and to the members of the National Municipal League to know the facts, inasmuch as there are those who are disposed to criticize the National Municipal League and the NATIONAL MUNICIPAL REVIEW unless articles dealing with the liquor problem support a certain propaganda. The League maintains the NATIONAL MUNICIPAL REVIEW for a fair and free discussion of the various problems of the city. The quarterly is as apt to publish an article at variance with the views of its active men, as one in harmony with them, and that because it believes all sides, when fairly put, are entitled to a hearing. As a highly controversial and most important question, its pages should be particularly open to a full and free discussion of all phases of the liquor problem. For this reason we welcomed George C. Sikes's proffered article on "The Liquor Question and Municipal Reform"—(See vol. v, p. 411), and for the same reason we have invited an article on the influence of prohibition on municipal affairs in Tennessee, which we expect to publish in an early issue, and we hope we may do so without running the risk of having some reader wondering, as one did after the appearance of the Sikes article, if it were not possible that there was "a nigger in the woodpile." Robert S. Keebler, who is to prepare the article for us, is a member of the Memphis bar, is deeply interested in constitutional reform. He has been highly commended to us by those whom we hold in high esteem, as a fair minded, sincere student of public questions.—C. R. W.

* B. S., Temple University, 1912; A. M., University of Pennsylvania, 1915, in sociology, economics and education. Principal of the Richardson L. Wright Public School, Philadelphia. Mr Boyer has prepared the follow-

More and more as society progresses and becomes more completely organized and integrated does the welfare of the whole depend upon the steadiness and efficiency of each individual. The dominating note of the time is efficiency, efficient democracy, efficient national and local government, efficiency in manufacturing, in agriculture, in all industrial work. Good health and active, alert minds are prime requisites for efficiency and to secure this desired condition we make laws for pure food, fresh air, parks, playgrounds, sanitary housing, healthful working conditions and the like. This all means that individuals are gradually learning to live sanely and temperately. Under the stress of modern competition, a man must be master of his faculties or he cannot keep his place. Just in proportion then, as this connection between the general welfare and individual efficiency becomes more intimate, society surrounds the individual with more careful provision for his well-being.

One of the most pressing of our social problems is that of the use of intoxicating liquors, and it is only because the use of this class of beverages lends itself so readily to abuse that it is a social problem at all. The growing dissatisfaction with the drink habit cannot be accounted for on moral or religious grounds. Men are to-day no more religious, no more moral than ever before. Their actions are, however, more closely and intimately interwoven into the socio-economic fabric and, therefore, it is a social and economic problem which liquor presents. Moral, religious and economic ideals have done much to hedge about the use of intoxicating liquors, but society, through the machinery of organized government, has chosen to attack the problem by way of the traffic, for trade is pre-eminently a social act.

Society, then, deals with the liquor problem principally through legislation directed at the traffic. In regard to the status of this liquor legislation, John Koren, expert investigator for the committee of fifty, has this to say:

"The bald truth is that, viewed as a whole, the liquor legislation of the United States invites bewilderment and despairing statistical studies: "Class Size and School Progress" in *Psychological Clinic*, May, 1914; Retardation; Variability of Composition Grades; Effective Definition (A Study in Method).

rather than admiration and confidence. The sum total of our efforts to legislate concerning an exceedingly difficult social problem is unintelligent and thereby largely ineffective. How can it be otherwise so long as the laws aiming to regulate 'an inherently dangerous traffic' proceed largely from unthinking agitation, careless or indirected experimentation, hasty piling of inconsequential statutes upon statutes and endlessly amending them in unessential details?"

Perhaps most people are not aware of the true state of affairs. Others regard it complacently except when the legal machinery created for us shows too obvious signs of breaking down, and then are content to have more tinkering done by incompetent hands. Whether we blame ignorance or indifference, the fact remains that what we are pleased to call systems of liquor legislation are, for the greater part, crude make-shifts that fail of their purpose and often prove a stumbling block in the way of good government. In proof of this, it almost suffices to state that there are nearly as many systems of dealing with the liquor traffic as there are license States, notwithstanding many points of similarity. Yet, given the same problem, which everywhere produces an abundant crop of the same perplexities, it is unthinkable that it can be met with equal success through regulative systems that differ in fundamental principles. It is begging the question to say that our restrictive legislation has been a total failure, for it has not been rational nor progressive. True, it is exceedingly prolific, but it evidences a search for varieties rather than for central principles. The invention of legal irritants has been mistaken for the discovery of elements that make for stable control. The whole fabric of liquor laws is of the haphazard order, from the pivotal question of the authorities who should grant privileges to sell and their power of control, down to the most trivial detail. The experiments may appear numerous, but are for the greater part revivals of time-worn expedients.

This backward condition of our liquor legislation is easily accounted for. Its key-note has always been repression and penalties, regardless of whether they could be enforced. Progressive measures have been blocked not solely by the trade, but by persons most

inimical to it, whose theory is that the worse the status of the trade becomes the sooner it will be abolished. Therefore, they look askance at such practical means of promoting sobriety as that of taxing intoxicants according to their alcoholic strength and of favoring the substitution of the least intoxicating beverages in every way.

The acceptance of the doctrine of force as *the* means of making men sober spells the despair of the temperance cause; its hope lies in efforts for gradual betterment through ethical forces and general enlightenment plus progressive restriction. But this plea for scientific investigation and for intelligent and effective modification, restriction and regulation of the traffic is unheeded by a great body of people who, in utter despair of any good coming from such treatment of the problem, and with somewhat of emotional intoxication born of this despair, cry out for the complete eradication of the multitudinous evils of the traffic by means of its total prohibition.

In this effort to wipe out the liquor evil by abolishing the traffic, the prime movers are the Prohibition party and the Anti-saloon league. The Prohibition party points to "the failure of all non-political efforts to adequately cope with the problem, and the defeat of all attempts to solve the problem through the license parties and their candidates." The mission of the party is not to fight the liquor traffic, but to oppose those political forces that foster and protect the traffic.

The Anti-saloon league, on the other hand, while working toward the same end of national prohibition, is willing to accept small gains in the hope that the final total of these may sometime be so great as to secure the desired result. However, strong in their insistence that the liquor evil is national and must be dealt with nationally to be handled effectively, these reformers, finding national prohibition impossible at present and realizing that even statewide prohibition is unattainable without having first secured within the state a more or less completely organized sentiment against the liquor traffic, have set about to create such sentiment, and to back it up by actual test of and experience with prohibition of a local nature. This procedure is clearly outlined in bold type in a recent leaflet of the Michigan anti-saloon league as follows: "No state

has recently adopted state-wide prohibition until half its territory was 'dry' by 'local option.' . . . When enough counties in Michigan go 'dry' Michigan will have state-wide prohibition. . . . When nineteen more states go 'dry' we will have national prohibition. . . . Your votes, your money, your influence, count for a 'dry' county, a 'dry' state, a 'dry' nation."

In other words, those who would solve the problems of the liquor traffic by its total national prohibition, have chosen to approach the problem piece-meal through the principle of local option. Here the path of the reformer is easier and the gains are tangible. Moreover the underlying principle of democracy is apparently more fully conserved thereby, for democracy means self-government. While the term "local option" might be construed to refer to any one of the many matters of strictly local concern, its use has come to be limited to the question of the liquor traffic. Further, while, even in this field, local option may be and is exercised on such matters as the kinds of license, methods of dispensing liquor, regulation and limitation of the number of licensed houses, hours of closing, etc., the term is commonly held to apply solely to local decisions on the question of full prohibition. A local option election determines whether the unit concerned shall prohibit or license the sale of liquor, whether it shall be "wet" or "dry."

The purpose, then, of the local option principle is to permit the local community an unhindered expression of its will in the matter of legalizing or prohibiting the sale of liquor. For the germ of local option legislation one has to go back to the year 1829, when the selectmen of each town in Maine were authorized to decide whether or not liquor selling should be permitted. This indirect method of deciding the issue soon ceased to have a legal warrant. The real beginnings of local option legislation date back to the eighties when the experiments with state-wide prohibition had become discredited. Experience had shown that, although general prohibition had everywhere been disregarded or evaded in the large urban centers, and that this had led to a condition of things that was fraught with serious menace to true progress, the law was nevertheless capable of enforcement in the rural districts and small towns. Hence local option laws. It is worthy of note, however,

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that even while lacking any warrant in law, not a few strictly rural communities had undertaken to exclude the liquor traffic and did it successfully.

Massachusetts led the way in 1881 with the first full-fledged local option law, which ever since has been in force. By the year 1900 there were seventeen states in which local option could legally be exercised by direct popular vote applicable to all localities; six had local option by direct popular vote applicable to special localities or rural districts only; nine states had direct local option through discretionary power vested in city councils and other local governing bodies; and in five states there existed the right of vote by remonstrance and by provisions requiring the consent of legal voters or property holders.

At present there are nineteen prohibition states:—

Alabama	1915	North Carolina	1909
Arizona	1915	North Dakota	1889
Arkansas	1916	Oklahoma	1907
Colorado	1916	Oregon	1916
Georgia	1908	South Carolina	1916
Idaho	1916	Tennessee	1909
Iowa	1916	Virginia*	1916
Kansas	1880	Washington	1916
Maine	1858	West Virginia	1914
Mississippi	1909		

* Prohibition effective Nov. 1, 1916.

Only three license states, Pennsylvania, New Jersey and Nevada, lack any provision for local option by popular vote, and even here means have been found to make certain limited sections dry. In Pennsylvania the supreme court has decided that the Brooks high license law gives the judges of the license court absolute discretion in the licensing of saloons. Consequently the judicial-mindedness of a candidate is frequently determined by his stand on the liquor question. By this very doubtful procedure sufficient prohibition judges have been elected to make eleven counties dry by refusing to grant licenses. In New Jersey, special charter provisions have enabled certain cities, townships and boroughs to exclude the saloon. Nevada is a strong license state, but even here 10 per cent

of the taxpayers in any rural school-district can exclude the saloon if they can prove it to be detrimental to the public health and morals of the community. The remaining twenty-six states have local option laws which apply to a variety of territorial districts ranging from residence districts of municipalities to entire counties. Among the territorial districts which have been adopted as units for local option election are the following:—county; city; town; township; village; supervisorial district; county outside of city, town, village; supervisorial district outside towns or cities; parish; precinct; election district; school district; residence district; ward; block.

The principle of local option must be conceded. But what does "local" mean? State governments are local as compared with the nation of which they are a part, but the term local option does not apply here. Local means a sub-division of a state. The largest sub-division of a state is the county. This is the unit for local government and at first blush it would seem to be the desired unit for option on the liquor traffic. If the people of the county live under identical social, environmental and economic conditions, if the county government exercises the necessary executive and judicial as well as legislative functions throughout the extent of the territory in question, then the county is the proper unit for local option. But where the county contains a town with its own local officers and government and where, as is often the case, the sentiment on the liquor traffic in the town is at variance with that of the surrounding rural portions of the county, anomalous situations are bound to arise. For example, Muskingum county, Ohio, held an election under the Rose county option law in which 14,973 votes were cast. Zanesville, the county seat, gave a majority of 1414 in favor of the sale of liquor, but the county as a whole gave a dry majority of 1,011. Again, the city of Springfield voted wet by 2,000, but Clark county, of which it is the county seat, went dry by 139 votes. The county had no machinery for the enforcement of the law in the city. It was therefore left to the civic authorities of Springfield to enforce the suppression of the sale of liquor against the wishes of its people. It is plain that this situation is not conducive to law enforcement. Because of a provision in the county

option law these towns had no way of making effective their wet choice even though the Beal law provides option for towns and villages. Therefore these towns had *county* option but no *local* option, and they found a means of securing this local option by the passage in 1914 of a home rule amendment to the state constitution as follows: "No law shall be passed or be in effect prohibiting the sale, or giving away of intoxicating liquor operating to a sub-division of the state upon a vote of the electors thereof, or upon any other contingency, which has force within a territory larger than a municipal corporation or a township outside of a municipal corporation therein." A similar situation was presented in Indiana when in 1908 a county-unit local option law was passed under which the state voted itself almost completely dry by counties. However, the reaction was rapid, for in 1911 a city and township option law was substituted and more than 600 saloons were reopened. Florida, Maryland, Michigan and Montana maintain the strict county unit; Kentucky, Texas and Minnesota have county option, but permit resubmission of the question to smaller units after the county of which they are a part has voted "wet." However, if the county votes "dry," no such smaller-unit resubmission of the question is permitted. The anti-saloon league is constantly agitating for county-unit local option because this unit is most effective in securing large additions to dry territory. However, the fact that only four states use this county-unit unqualifiedly, indicates rather clearly that people generally recognize the inexpediency of county local option.

Twenty-two of the twenty-six local option states have laws which apply to units smaller than the county. There seems to be an endeavor to confine the term "local" to the smallest self-governing community. Hence we have city, township, town, village option with the privilege also accorded to the outlying sections of counties not included in any of the above. It will be seen that this arrangement does not prevent a whole county from becoming dry. The incorporated towns and villages and the unincorporated outlying sections may vote dry separately. However, this scheme does prevent the rural vote of a county from forcing prohibition on an unwilling town within its borders. In so far as local option has for

its purpose to register the will of a local self-governing community on the question of the liquor traffic, these units for that decision seem ideal. The traffic is prohibited or permitted by popular vote of just that group of people who must live under the condition so determined. If a town votes wet it may have saloons; if dry, then it will have none. This would appear to be perfectly just and to work well except for the fact that the purpose of local option, at least for the reformer, is *prohibition*. The town that votes dry rids itself of the saloon and its attendant evils, but it does not rid itself of drinking and the effect of nearby saloons. "Burlington, Vermont, votes for license and South Burlington for prohibition. The relations between the two communities are so close that many residents of South Burlington are nearer the licensed places in Burlington than people living in the extreme north part of the city. Moreover, the bottle license practically extends license from every town voting for it to every other town in the region tributary to that community. St. Albans, for example, is the shire town of Franklin county, Vermont, and the inhabitants of every town in the county go to St. Albans to trade, to attend to legal matters and to transact various kinds of business. Residents of those towns in Franklin county that have voted against license at home have no difficulty in securing all the liquor they want at St. Albans and taking it home with them. It makes no difference where the liquor happens to be sold. The supreme issue is where are the effects of the liquor felt." For years the towns around Boston have voted dry, but they are in such intimate connection with Boston that they may really be said to be wet. Local option becomes in these cases a restrictive rather than a prohibitory measure. By voting dry a community outlaws the saloon, not in general, not everywhere, but only within its own limits, knowing well that liquor may be easily secured when desired.

Still smaller local units show the tendency of restriction through local option. Wards, residence districts and even city blocks exercise option in eleven states. These divisions are units to be sure, but they are not centers of local self-government. They have no machinery for carrying their decisions into effect. They are entirely dependent upon the larger unit of which they are a part, and the

only purpose of voting dry is to exclude the saloon from their own immediate neighborhood. It can hardly be said that a dry vote in so small a section indicates a desire for prohibition. It seems rather to show a policy of restriction, of segregation. Indeed this same purpose is achieved through city ordinances or even state laws prohibiting saloons in residence districts, creating a dry area of two miles around cities of certain sizes, limiting saloons to one for every 500 of population, restricting them to the "effectively policed parts of cities" and excluding them from the vicinity of churches, schools, homes and manufacturing plants. All these provisions are regulatory; not prohibitory. They do not indicate a no-license policy and cannot therefore be counted as gains toward the goal of state or national prohibition except in so far as the segregation of the saloon drives the saloon into a corner where it may finally be killed.

Thus we see that when the principle of local option is confined to very small sections, its effect amounts solely to restriction. There is little if any effect on the consumption of intoxicating liquors. The sentiment of the people is so uniform, the composition of the people is so homogeneous that dissenters are few and their influence is feeble. Combine with this the fact of easy access to neighboring license sections and it is clear that there is here no inherent difficulty in law enforcement. In general, these same observations hold true when the unit is extended to embrace the town, township, village or city. Students of municipal government are strenuously advocating a larger measure of home rule. This should certainly include control of the liquor traffic. If the people of such a local self-governing community have the choice to become wet as well as to become dry, then the principle of local option is conserved. However, as the term "local" is construed to refer to larger and larger units, difficulties multiply. When the unit is extended to embrace the county, which usually contains distinct groups of people with characteristically different views on the liquor traffic, then the wisdom of the principle becomes questionable. When the rural prohibition vote so preponderates over the urban vote for license as to cause the whole county to become dry, then the town has no option. Hence the extension of local option beyond a very small local government destroys the very essence of its purpose. It de-

stroys all option in the towns and cities whose inhabitants repudiate prohibition by their votes. County local option becomes in these cases county coercion.

Methods of registering the option are as diverse as are the sizes of the units concerned. For this reason the accompanying table has been prepared to show the salient features of the local option laws of each state. It will be noted that in most cases local option elections occur as the result of petitions signed by a given number or per cent of the electorate. The percentage required varies from 10 per cent in Connecticut to 40 per cent in Ohio (Beale Law), the modal per cent being 25 per cent, required in eight states. Occasionally a 50 per cent petition is required, as in Ohio residence-districts, but in this case no election is necessary. The basis of the percentage is usually the whole number of qualified electors, registered or legal voters, though in some few cases the per cent is based on the vote cast at the last preceding election (Illinois). Still further refinement enters when the basis of the per cent is made the vote cast for some designated officer, *e.g.*, governor in California and Minnesota, in counties; secretary of state in Indiana townships and mayor in cities. This will be recognized purely as a device of temperance forces to decrease the number of signatures required to make a petition valid.

Usually the form of the petition is definitely prescribed and a verification of signatures required, *e.g.*

FORM OF PETITION

"We, the undersigned, registered voters of ——— county, state of Florida, hereby make application to, and petition this honorable board of county commissioners in and for said county to call an election to decide whether the sale of intoxicating liquors, wines or beer shall be prohibited in said county. Said election to be called and conducted according to the constitution of this state, and the statutes thereof, heretofore made and provided. No such election has been held in said county for more than two years prior hereto.

"Hereto attached, and in support hereof are one-fourth or more of the registered voters of said county as provided by law."

The petition is filed with the licensing authorities who then order an election. In some cases this election is a special election held from twenty to sixty days after filing the petition, unless this conflicts with a regular election, in which case the local election is deferred. In other cases (fourteen states) the time of the local option election is that of the next local or general election. In all cases a majority vote decides the question. If a majority votes against license, then prohibition is the rule in the entire unit concerned, but if the majority votes for license, subdivisions of the unit may, in some cases, resubmit the question and vote themselves dry (California, Florida, Kentucky, Texas). Accordingly prohibition is often forced upon a recalcitrant community, but license never.

A local option decision holds good until another election is petitioned for in the legal manner, except that the question may not be resubmitted for periods ranging from *one* year (in Louisiana, Massachusetts, Nebraska, South Dakota, Vermont, Wisconsin and parts of Connecticut and Minnesota) to *four* years (in Missouri, New Mexico and parts of New Hampshire). The usual limit on resubmission is two years. This term is used in ten states and in parts of New Hampshire. The submission of the license question annually does not give time for a fair trial of either the license or no-license policy and results in much vacillation and wavering. The problem is kept constantly before the people by continuous agitation. This state of affairs is considered eminently desirable by local prohibitionists who feel that through this means of continuous agitation, the liquor question may be kept prominently in the minds of the people and so result in the gradual, but sure development of a determination to have done with the whole problem by the complete eradication of its cause, the saloon. This singleness of purpose, characteristic of the reformer who, like a balky horse, always wears blinders, so that he cannot, even if he will, see either to right or left, is not without its advantages to society. But a broader more unbiased view of the problem points very definitely to the conclusion that a period of one year is much too brief for the consummation of the very complex social adjustments necessary to the satisfactory operation of either plan. Two years would be a

better term and even three years would not be too long for a thorough trial of and an intelligent, unified judgment on the policy determined.

Massachusetts, New Hampshire and Vermont vote by towns on the question of license or no license, without petition, at the regular annual town election. Maryland and Delaware may vote on the question by counties only when permission is granted by a special act of the State legislature. South Dakota is peculiar in that it is considered dry till voted wet. Saloons must be petitioned for and voted in or the territory remains dry, and a wet local unit becomes dry automatically at the end of the license year unless revoted wet. New Mexico and Wyoming have rural prohibition, and Wyoming has municipal council option.

As will be seen in the table, all states have laws prohibiting the liquor traffic in specially designated areas. In general these areas surround schools, churches, homes, camp meetings, construction camps, etc. The saloon is undesirable in the neighborhood of school, church or home; it is dangerous in the vicinity of a camp meeting or a construction camp, hence it is ostracised. Besides these general restrictions there are numerous local limitations on the location of saloons as well as on the proportion of saloons to the population. These local restrictions are in their nature essentially local option provisions though not usually so considered.

The success of the no-license agitation is indicated by the fact that at the present time, by state constitutional and statutory provision and by local decisions, 80 per cent of the land area of the United States is under prohibition. In this dry area live 54 per cent of the population of the country. More than one-half of the population of the United States, spread over four-fifths of its area, is under no-license. The proportion of population living in dry territory, the proportion of population which is rural and the proportion of population which is native white of native parentage, are identical (54 per cent). This is more than mere coincidence for, while we know of dry cities and wet country-districts, prohibition is largely rural except where state laws have imposed it upon urban centers, and prohibition sections generally show a high per cent of native white of native parentage.

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An analysis of the statistics of urban population for the nineteen prohibition states shows a range from 11 per cent in North Dakota to 53 per cent in Washington, but the median per cent is low (20.6 per cent in Georgia), showing that most prohibition states are distinctly rural. The following summary of these figures will make this clear:

<i>Per cent of population which is urban</i>	<i>States</i>
Above 46	3
Between 30 and 46	3
Between 20 and 30	5
Less than 20	8

It will be observed here that only three states (Colorado, Maine and Washington) have an urban population exceeding 46.3 per cent, which is the proportion for the United States as a whole. Thirteen, or more than two-thirds, of the prohibition states have less than 30 per cent of population urban. On the other hand, these prohibition states show a high proportion of native whites of native parentage in the composition of their population. The percentages range from 26.4 per cent in North Dakota to 85.3 per cent in West Virginia, with 62 as the median per cent. Thirteen of these states show a higher percentage of this class of population than that of the United States as a whole (53.8 per cent). Ten of these nineteen states adopted prohibition within the past year, yet the median per cent of population urban rose only 1.3 points from 19.3 per cent in 1915 to 20.6 per cent in 1916, and the per cent of native white of native parentage fell only 5.3 points from 67.3 per cent in 1915 to 62.0 per cent in 1916. Thus we see that more than doubling the number of prohibition states has made no appreciable change in the character of population affected. State prohibition, then, appeals to states whose populations are largely rural and native white of native parentage.

In the twenty-six local option states, the percentage of area made dry by local legislation ranges from 18.0 per cent in Rhode Island to 98.3 per cent in Wyoming with the median per cent at 78.5. Only three of these states have less than half their area under no-license, seven are between one-half and three-fourths dry and

sixteen states are more than three-fourths dry. Of these sixteen states, five are more than 90 per cent dry. Hence with nineteen states wholly dry, sixteen states more than three-fourths dry, and seven states more than half dry it would appear from the map that national prohibition, requiring the consent of thirty-six states, is not far off. However, the urban communities have always proved an effective check on such a procedure and indeed many voters who welcome local prohibition are unalterably opposed to a national prohibitory measure.

In the proportion of the population living in no-license sections of local option states there is wide variation. The range is from 3 per cent in Rhode Island to 91 per cent in Florida, with the median per cent at 42. We saw in the figures for the United States as a whole that there was a marked similarity in the per cents of population dry, rural and native white. In the distribution of these per cents for the twenty-six local option states there is a general and fairly regular fall in the per cent of population rural and native white as the per cent of population dry decreases. The prohibition and license states are added to the following summary of the full table in order to make it complete:—

<i>States.</i>	<i>Per cent of population dry.</i>	<i>Per cent of population rural.</i>	<i>Per cent of population n.w. of n.p.</i>
Prohibition .....19	100	74	60
Local option 5	75-100	73	61
7	50-75	59	54
9	25-50	45	49
5	0-25	37	44
License 3	license	40	46

Thus it would seem that urban and foreign populations were opposed to no-license legislation, probably, in the first case because of better facilities for regulation in cities together with the stronger organization of the liquor traffic, and in the second case because of early training and national custom.

Notwithstanding the rapid and wide-spread gains made by no-license legislation, and in spite of the fact that the map is strikingly

white, there has been a continuous increase in the per capita consumption of intoxicants. The statistical abstract of the United States census gives 4.17 gallons as the per capita consumption of all liquors in 1840. This figure rises to 16.72 gallons in 1891, 17.76 in 1900, and from 1906 to the present it hovers between 21 and 23 gallons per capita. It is interesting to note that while there was an increase of approximately six gallons per capita in the decade from 1880 to 1890, in the past twenty-six years there has been no more than a six gallon increase. This is some slight sign of a gain, but it would seem that with constantly extending no-license area and population there should be an absolute decrease in consumption. However, this is not the case, for while the population of the United States increased 350 per cent since 1850, the per capita liquor consumption increased 456 per cent. Further, while the population of the United States increased from 76 millions in 1900 to 92 millions in 1910, or 21 per cent, the total liquor consumption increased from 1½ billions to over two billions of gallons, or 50 per cent. In this decade, then, consumption increased more than twice as fast as population.

Consequently, with the peculiar situation that the consumption of intoxicating liquors is constantly increasing concomitant with a rapidly growing area and population living under no-license laws, we are driven to one of the following conclusions:

1. The ever decreasing population remaining under license shows an astounding propensity to increase its liquor consumption. It is not our experience that wet sections are becoming wetter.

2. Internal revenue collectors are continuing to show a slow and regular increase in efficiency in the detection of the manufacture and sale of liquor. This circumstance has probably accounted for some of the increase shown in government tables in the past, but its effect at present would seem to be a minimum.

3. The drier we become, the more liquor we consume.

It is clear, therefore, that the liquor question is far from being settled. Indeed from the facts here presented it would appear that we are not even on the right road to final solution of the problem. According to the Prohibition Year Book for 1915, page 13.

"The 1915 statistics show a total consumption of liquor practically equal to that of any previous year of our history. The latest available government reports show greater investments of money, and more men employed in the liquor business, and allied industries, than any statistics heretofore published. Current political history shows the traffic to be as strongly entrenched in our politics and our national government as it has ever been, and probably stronger than ever before. These facts obtain in spite of the tremendous anti-liquor agitation and the widespread movement against the saloon."

Indeed,

"There have been concomitant evils of prohibitory legislation. The efforts to enforce it during forty years past have had some unlooked-for effects upon public respect for courts, judicial procedure, oaths, and law in general, and for officers of the law, legislators, and public servants. The public have seen law defied, a whole generation of habitual law-breakers schooled in evasion and shamelessness, courts ineffective through fluctuation of policy, delays, perjuries, negligences, and other miscarriages of justice, officers of the law double-faced and mercenary, legislators timid and insincere, candidates for office hypocritical and truckling, and office holders unfaithful to pledges and to reasonable public expectation. Through an agitation which has always had a moral end, these immoralities have been developed and made conspicuous." *

Furthermore, prohibition encourages the consumption of the heavier liquors which can be more easily transported. The constant agitation of the question tends to discourage reputable men from entering the business. But worst of all prohibition is wholly negative. It considers neither the necessity of substitutes for the saloon nor the problem of the gradual development of improved standards of living. It looks askance at all propositions to encourage the use of lighter beverages by progressive taxation. In fine, what social development shows can only come safely and surely

* President Elliot in Introduction to Studies of Committee of Fifty.

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by a gradual process of evolution, prohibition would achieve by revolution.

"What the future may hold in store we can only forecast from the present, and, so far, unfortunately, the promises of prohibition have far outstripped performance. Some day, no doubt, society will be ready for measurement by new standards; but until then progress is not made by adding new evils to those that now burden us." †

† John Koren, *Atlantic Monthly*, April, 1916.

STATUTORY PROVISION FOR LOCAL OPTION

States	Unit	Subdivisions	Petition				Time of Election	Limitation on Resubmission	Vote by Order of Local Officials	Laws Prohibiting the Liquor Traffic in Special Areas ^a	Legal References
			Qualifications of Signers	Number or Per Cent Required	Basis of Per Cent	Filing					
1. California ^a	1. City (incorporated) 2. Town (incorporated) 3. Supervisorial districts outside of towns and cities	Block (in wet town or city)	Qualified electors	25%	Vote at last election for governor	1. City Council 2. Bd. of Trustees 3. Legislative body or Bd. of Supervisors of the County	General election if petitioned 6 mos. to 40 days before, otherwise 30 to 60 days after filing petition	2 yrs.	Legislative	3 mi. dry area around Soldiers' Home, and University (1,000 students). State Hospital, construction camps	S. L. 1911, ch. 351, P. 599-601, 452 Heming's Gen. Laws, 1914, P. 794, Sec. 2223-4
2. Connecticut	Town		Registered voters	10%	Registered voters	Town clerk 30 days before annual town meeting	Regular election (annual or biennial)	1 or 2 yrs. (according to election custom)	Selectmen	License in cities restricted to "efficiently policed parts," Residential sections. Manufacturing sections	1909, Chap. 65, 224 1915, Chap. 282, Sec. 2647
3. Delaware	4 districts specified in State Const.		State assemblymen of both houses from district in question	Majority	Number of assemblymen elected by each district	General assembly	General election		State Assembly		State Constitution, Art. 13
4. Florida	County	Election district if majority voted dry at election by which Co. went wet	Registered voters	25%	Registered voters	Board of Co. Commissioners	Within 60 days of filing petition unless conflicting with state or nat'l elec. Then 60 days after such election	2 yrs.	County Commissioner	4 mi. of church or school except in towns. In vicinity of mill, mfg. plant, phosphate plant, turpentine still	State Constitution Art. 19, 1914, Sec. 1209-1217 Sec. 3809
5. Illinois	1. City 2. Town 3. Village 4. Precinct		Legal voters	25%	Voters at last election	Clerk, 60 days before election	General election	18 mos.	Local authorities	4 mi. of State University, Soldiers' Home Districts in Chicago	1907, P. 297 1912, P. 969 1913, P. 306
6. Indiana	1. City (incorporated) 2. Township not containing incorporated city 3. Part of township outside line, city		Legal voters	20%	Vote for 1. Mayor 2. Sec. of State 3. Sec. of State Legal voters	County auditor	20 to 30 days after next meeting of Co. Commissioners	2 yrs.	County Commissioners	1 mi. of Soldiers' Home, church, fair 400 ft. of school outside city or town	1911, S. 327 (Recession from Co. L. O. of 1908), Ch. 148, P. 363
	b										
b		1. Township 2. City ward	Legal voters	50%		County auditor	(Remonstrance; no election necessary)	2 yrs.			Barnes' A. S. 1908, Sec. 5832

7. Kentucky	<div> <div>1. County</div> <div>2. City</div> <div>3. Town</div> <div>4. District</div> <div>5. Precinct</div> <div>Precinct</div> </div>	<div> <div>If larger unit votes with previously dry, smaller units remain dry</div> </div>	Legal voters	25%	<div> <div>Vote at last election</div> <div>1. General election</div> <div>2. Town election</div> <div>3. School election</div> <div>4. General election</div> <div>5. Legal voters</div> </div>	County Judge	<div> <div>At least 60 days 3 yrs. after filing petition. Not at regular elections except 2, 3, 4th class cities</div> <div>Remuneration: no elec. necessary</div> </div>	County Judge	<div> <div>400 ft. of Normal School or University</div> </div>	<div> <div>1912, Ch. 3</div> <div>1914, Ch. 13, Sec. 2554-9</div> <div>1915, Carroll's Statutes, Vol. 1, Ch. 81, P. 1309</div> </div>
8. Louisiana	1. City						1 yr.	1. City Council 2. Police Jury 3. Police Jury 4. Municipal auditor 5. Police Jury	300 ft. of church or school, 3 to 5 mi. of various high schools	R. L., Vol. 1, P. 602 Vol. 2, P. 379
	2. Parish									
9. Maryland	3. Ward of parish									
	4. Town									
10. Massachusetts	5. Village									
	County									
11. Michigan	1. City						1 yr.		1 or 2 mi. of certain schools, reformatories and mfg. plants, Talbot Co., Sections of Baltimore	S. L. 1912, P. 775, 1188, 1266, 235, 733 1914, P. 840, 944, 1011
	2. Town								1, 2, 3d, licenses prohibited 400 ft. of school	R. L., Ch. 100, Supplement, P. 81, 767
12. Minnesota	County									
	1. County								1 mi. of Soldiers' Home, 1/2 mi. of cemetery, 400 ft. of church, school or residence district	S. L. 1899, P. 275 1909, P. 685 Sec. 8409 Howell's State, V. 2, Ch. 84, Sec. 5017-84
13. Missouri	2. Town						2 yrs.	County Commissioners	1,000 ft. of state institutions	1. S. L. 1915, Ch. 23, S. F. 77
	3. Village (inc.)								1,500 ft. of schools outside cities	
14. Missouri	4. Fourth class city						1 yr.	Town Clerk	6 counties by Indian Treaty of 1855	2. } R. S. 1913, 3. } Ch. 16, Sec. 3123
								Town Clerk	1/2 mi. of dry town	4. R. S. 1913, Sec. 3131-3
15. Missouri	1. County (outside city) (2,400 or more)						4 yrs.	County Court	1 mi. of camp meeting Fair Grounds	R. S. 1909, Ch. 88, Art. 111, 1906, Sec. 2697 R. S., Sec. 4717 681

STATUTORY PROVISION FOR LOCAL OPTION—Continued

State	Unit	Subdivisions	Petition				Time of Election	Limitation on Remission	Vote by Order of Local Officials	Law Prohibiting the Liquor Traffic in Special Areas ¹	Legal References
			Qualifications of Signers	Number or Per Cent Required	Ratio of Per Cent	Filing					
14. Montana ²	County		Qualified voters	88½%	Qualified voters	County Commissioners	40 days after filing petition but not during month of general election	2 yrs.	County Commissioners	Indian reservations, 5 mi. of camp, mine, quarry, 1 mi. of camp meeting, ½ mi. of park, 1,000 ft. of cemetery	Rev. Codes, 1907, Sec. 2041-9 Laws 1907, Ch. 65 Sec. 717
15. Nebraska ²	1. City 2. Village, or less 3. Larger cities (by Initiative and Referendum)		Freeholders and voters Voters	30 15%		Excess boards or councils 30 days before election	Regular municipal election	1 yr.	Corporate authorities	2 mi. of incorporated city or village (except in Douglas Co.) 5 mi. of construction camp 2½ mi. of U. S. Military Post	Comp. Stat., Sec. 4246, 4255a State Const., Initiative and Referendum S. L. 1913, Initiative and Referendum
16. New Hampshire	1. City 2. Town						Regular election	1.4 yrs. 2.2 yrs.		200 ft. of church or school	1908, Ch. 95, Sec. 31
17. New Mexico	1. Municipality (inc.) 2. County (outside municipality)		Qualified voters Qualified voters	25% 25%	Highest no. of votes received by any candidate at last election Qualified voters	Local authorities Co. Commissioners	Between 1 and 2 mos. after filing petition; not within 2 mos. of any other election Between 1 and 2 mos. after filing petition; not within 2 mos. of any other election	4 yrs. 4 yrs.	By proclamation County Commissioners	In villages of less than 100 inhabitants Within 2 mi. of dry city	1913, Ch. 75 1913, S. B. 213 Codification 1915, Sec. 2927-48, 2876, 2889
18. New York ²	Town		Qualified voters	10%	Votes at last preceding election	With town clerk 20 days before reg. town meeting	Biennial town meeting	2 yrs.	Town clerk	200 yds. of fair except in city of 160,000 or more	1910, Ch. 486
19. Ohio	1. Township (outside municipalities) 2. Municipalities		Qualified elections Qualified elections	25% 40% 60%	Qualified electors Qualified electors Voters at last election	Township Trustees City Council Mayor or Judge	Special election 20 to 30 days after filing None	2 yrs. 2 yrs. 2 yrs.	Township Trustees City Council None	½ mi. of township park 1½ mi. of Soldiers' Home	Gen. Code, Sec. 6119-26 6127-40 6140-68
20. Rhode Island	1. City 2. Town						Regular biennial	2 yrs.		200 ft. of school	1914, Ch. 1062, P. 59

TEMPERANCE AND POVERTY

(From Bolton Hall's "Thrift")

The well-meaning, if somewhat fanatical, people who claim that alcoholic drinks are a gigantic waste, and advocate laws forbidding the sale, or manufacture for sale, of all intoxicating liquors, assert that liquor drinking is the chief cause of poverty, and that prohibition would bring general prosperity. They point to the large amounts expended for liquors annually, and give complicated figures intended to show that by stopping drinking the condition of the people in general would be greatly improved. And their parrot note, "Liquor is the cause of poverty," has created a widespread belief on the part of the general public that their claims are well-founded. "If ye tell me anythin' often enough," says Mr. Dooley, "I'll belave it."

The prohibition argument runs like this: "The people of the United States spend every year for liquor the enormous sum of two thousand five hundred million dollars (\$2,500,000,000). (See statement of Congressman Hobson.) If they were forced to stop drinking this money would all be saved, and would be used to buy food, clothing, soda water, land, furniture, cigars, etc., thus greatly promoting industry, and raising the standard of living." Poverty, low wages, long hours, child labor, and all other evils directly attributable to poverty, would be abolished—all by the simple process of "Be it enacted."

Let us look at the alleged facts on which these statements are based. The estimate of the amount spent for liquor is grossly exaggerated (figures can't fib, but fanatics can figure), but the total is undoubtedly immense, and if it could be saved would mean a considerable addition to the income of the people who pay the bill. It by no means follows, however, that the amount paid by the consumers of liquor is a total loss. First off, the amount is not the cost of the liquors, plus the manufacturers' and dealers' profits; it

is mostly taxes. The Federal Government's internal revenue taxes on the manufacture and sale of both distilled and fermented liquors amounted last year to two hundred and forty-seven millions (\$247,000,000). The average annual customs duties on imported liquors are about \$17,000,000, while the various state and municipal liquor taxes bring the total up to about \$370,000,000. This is not all the taxes paid by the liquor trade. There are in the United States about 220,000 wholesale and retail liquor dealers, occupying premises that pay their share of municipal and state taxes. In the case of leased properties of course the taxes paid by the landlord are shifted to the tenant, so that the total sum of taxes paid by this large number of dealers is very great. An estimate of five hundred million (\$500,000,000) taxes paid directly and indirectly by the liquor traffic would be moderate.

Of course this five hundred million of taxes would not be saved by prohibition of liquor. The taxes would have to be raised in some other way, with this difference, that while now the man or woman who does not drink escapes these taxes, under almost all our other present methods of taxation abstainers would be taxed as heavily as drinkers. Instead of voluntary taxes, paid by the users of liquors, we would have compulsory taxes on trade, industry, wealth-production and thrift, the result being to make the "good" grape juice people pay far more taxes than they do now.

The question of saving by stopping the sale of liquor has other, and more important, sides than that of the actual amount spent for drink. There is no proof that if men stopped drinking they would save what they now spend on liquor. Men drink, as the *New York Tribune* says, "because they like to drink." They get pleasure, gratification, or relaxation in the use of alcoholic beverages, just as others find pleasure or relaxation at the theater, the concert, or moving pictures. As the Scripture says: "Give wine unto him that is heavy of heart and strong drink unto him that is sorrowful. Let him drink and forget his poverty and remember his misery no more." The "Committee of Fifty to Investigate the Liquor Problem," composed of eminent scientists and publicists, reported after a careful study extending over several years that eighty per cent of all adult men use liquor, and that less than five

per cent drink to excess. If it were possible by law to prevent this temperate ninety-five per cent from drinking, they would simply spend the money that now goes for liquor for something else; some for harmful drugs or other things no better than liquors.

It is true that in one sense the labor and capital devoted to the manufacture and sale of liquors is unproductive. But this is also true of the manufacture and sale of jewelry, ornaments, women's hats, stiff collars, and thousands of other things that we could maybe better do without. Sculpture, pianos, paintings, or pillow shams are not necessities. Many men have lived without them. But such men were very low in civilization, and not even Prohibitionists would want to go back to the Stone Age, or to abandon the enjoyments that have come through new tastes and desires. So that proposing to force men on to the water wagon is seeking to deprive mankind of what experience has shown is in most cases a pretty harmless pleasure. The same reasoning would lead back to the old Puritanism, with its prohibition of dancing, cards, theater going, kissing, and other pleasures, and the reduction of life to a mere animal existence of working, eating, and sleeping.

Of all the expenditures that make up the total outlay of the people, a very large portion is in the same class as liquors, that is, they are not necessities but luxuries. Properly speaking, there are no luxuries, for whatever things men need are necessities, and men need amusements, relaxation, stimulation, and indulgence. If it were merely a question of actual necessities, men could live in caves, wear animal skins and subsist on clams, or on nuts and berries. The fact that modern man wants thousands of things that his ancestors did not even dream of, doesn't mean that these new things are any more luxuries than was cooked food to the man who formerly ate raw flesh.

Anything is a necessity that is so customary or has been so long enjoyed as to have lost its power for giving positive pleasure—as to be no longer felt as an item of good fortune, but rather as something that it would be a privation to be without. As the lady said, "Husbands are bric-a-brac; but Easter hats are a necessity."

When we come to the claim that liquor is the chief cause of poverty, we find it merely an unfounded assertion. The notion

that drink is the cause of poverty is due to the association of two unrelated facts: that most men drink, and that most men are poor. There is nothing in the great majority of cases to show that the poverty is due to the drink, yet the claim has been so often and so widely made that, despite the fact that most rich men drink, it has gained general acceptance. People say, "This poor man drinks. Drink therefore made him poor." They might say instead, "This drinker is poor. Poverty must have made him drink." The kind of reasoning that ascribes poverty to liquor is the same that leads men to say: "Great Britain has a king and Germany has an emperor, therefore royalty makes them prosperous." The truth is that so many elements enter into the problem of poverty that it is absurd to blame its existence on any one cause.

The idea that because poor men drink, drink makes them poor, is the same as saying: "Most of the poor men in England are white; their whiteness is the cause of their poverty." We might as well say: "Most poor men shave; therefore shaving makes them poor." The truth is that there is no proof that liquor to any material extent causes poverty, but, on the contrary, many reasons for believing that poverty causes drinking.

Look at the great countries of India and China, which hold nearly one-half of the human race. Mr. Srinivas R. Wagel, the well-known East Indian economist and journalist, lived for years in China; he says that wages in those two countries are the lowest, estimated in purchasing power, of any civilized country in the world. He states also that the great mass of the Indian and Chinese peoples hardly know of the existence of liquor. Clearly then there must be other causes of poverty in those countries. These various causes you may find in the other chapters in this book. Here is one of them, taken from the report of the New York State Board of Charities for 1914:

"Of all the cases of poverty relieved by public institutions during that year in New York State, as reported by the various counties, the average percentage of cases due to intemperance was less than seventeen in each hundred (16.63), leaving 83.37 per cent due to other causes." Of these other causes the largest was unemployment, about one-third (33 per cent).

How does it happen that the good people who are spending about two million dollars annually in the campaign to forbid the sale of liquor are saying nothing and doing less, about the much greater cause of poverty—lack of work?

Even if prohibition diminished intemperance, which the large number of arrests for drunkenness in Maine, where it has been tried the longest, disproves, there is no reason to believe that it would materially improve the condition of the people. It certainly could not bring an increase of wages, but would be more likely to reduce real wages. If cutting out liquor would make the workers more efficient and increase their output, fewer men would be needed, and the competition for jobs among the unemployed would tend to force wages down. If the men who do not work, or who work irregularly, because of drink, were all to become steady workers, this, again, would increase the supply of labor, and enable employers to get men at lower pay. If men found that by saving the five or the twenty cents per day that they had been spending for beer they could live on less wages, the iron law of competition that fixes wages on the basis of what it costs to live, would inevitably compel them to work for less than they were formerly paid.

So long as men able to work, and willing to work, can find no employment, any saving made through lessened expenditures would only result in reducing the wage for which they will work. It is competition among the men looking for jobs that keeps wages low. To give up drinking would merely increase the number of men out of work, and by making jobs harder to find increase their willingness to work for the bare means of subsistence. If in addition to liquor the workers would deny themselves everything but the cheapest food, coarsest clothing, and rudest shelter, they would soon find that having adopted what may be termed a Chinese standard of living, they would be forced to work for the Chinese scale of wages.*

* "They don't understand why a man should be allowed to dose himself with the belief that he amounts to something, but then they don't understand man. If they did they'd know it is only by fortifying himself with the stuff that they regard as of no good except to burn under a tea-kettle that he goes on living at all. He knows how good the drink makes him look to himself, and he drinks. They see how bad it makes him look to everyone else, and to

It is true that in general an inebriate may get higher wages after he gives up drink, but the total amount of wages paid out for the same amount of work will be no larger than before. To double the skill and industry of all men at once, in the absence of free land, would only increase the amount of rent, and would enrich no one but the owners of the land. It is no more the quality of work done than it is the number of workers that determines wages. It is the amount of opportunity to work that fixes wages.

A man gets higher wages than others, usually because he does more work or else he does better work; but whether he does more work or does it better, he takes the job of some less vigorous or some less skilled competitor, who is now idle.

The increased wages which a reformed man gets will reduce both the payroll and the rate of wages. For four dollars a day to a man who hangs seventeen doors a day is lower wages than two dollars a day to a man who hangs seven. If getting a living was easier in prohibition towns they would be swamped with immigrants. But living is no easier in prohibition States than in license States.

Temperance is a benefit to an intemperate man who reforms; but to make individuals better workmen is little benefit to society where all the means of work are in the hands of a few. No matter how much more sober, how much more industrious, how much more skillful you make the mass of men, the results of it go eventually to the world owners.

Suppose that some State should adopt prohibition for all narcotics and stimulants—morphine, tobacco, coffee, tea and all the rest.

What would happen? Probably the same thing that happens under liquor prohibition. The sale of tobacco would be checked because a man can hardly smoke without being caught at it. The sale of morphine and cocaine would increase, and the narcotic prohibition intended to protect men against themselves would succeed only in changing many tobacco smokers into morphine or cocaine users, or in establishing a few more clubs of those sufficiently prosperous to defy the law or to buy immunity.

the world outside. When he's drunk he makes the bluff to his own heart."—"Mr. Dooley Says," by F. P. DUNNE.

No one advocates the kind of prohibition that would change a tobacco smoker into a morphine fiend. And every one who advocates liquor prohibition is advocating legislation that he ought to know will change drinkers of beer and light wines into drinkers of strong spirits.

Many of the amiable ladies and gentlemen who advocate prohibition of all alcoholic drinks do advocate prohibition of tobacco, and give alarming figures of the money that goes up in smoke. These well-meaning, earnest men and women forget that you cannot change in a day or in a century the habits of an entire race. You could no more make a nation such as this teetotal than you could make it vegetarian.

Since the day of Phineas, the grandson of Aaron, we have been indulging in vice crusading. He did it in a thorough-going way; "He thrust both the man and the woman through with a spear." The refusal of Jesus to condemn a woman caught in sin does not deter the ministers from throwing themselves heart and soul into crusades to-day. The history of the past shows that the more savagely we attack vice by law the more it increases. Two hundred years ago in England sheep stealing was a capital offense. It was one of the commonest offenses at that time, and, strange to say, it is now the rarest.

The way to resist temptation is to have the temptation. We have societies for the suppression of vice, and the result is that we have more suppressed vice than before. The whole method is wrong.

No man was ever made good by force, and you can't take him by the scruff of the neck and lift him up to heaven. He goes there only by first educating him as to the way, and making his path straight. What is the most needed is the uplifting of ideals.

As Brand Whitlock says in his book "The Enforcement of Law in Cities": "That philosophy has no faith in the efficacy of force in making people good. It teaches that people get better and improve, not by the destructive processes of hatred and wrath, but by the constructive method of love and reason. It teaches that goodness comes from within, not from without, that you cannot beat goodness into people, or give them a prescription for it, to

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be taken in doses, like medicine, but that they must generate it out of their own hearts; and it believes that if we will only make social and economic conditions that will give all men, instead of a few men, a chance to live, they will naturally and inevitably become good. It teaches that you cannot make people good by law, nor by policemen's clubs, nor by guns and bayonets, for it sees only hatred in these processes, and it knows that 'hatred ceaseth not by hatred; hatred ceaseth but by love.' "

ALCOHOL'S RELATION TO MENTAL HYGIENE

[Excerpts from an address by Dr. Frankwood E. Williams, Executive Secretary of the Massachusetts Society for Mental Hygiene, before the American Public Health Association, Cincinnati, O., October 24, 1916.]

Not so many years ago an insane person was supposed to be possessed of a devil. A still less number of years ago insanity was considered a moral rather than a physical or psychological disease, and the insane person was supposed to have sinned so seriously that God had turned against him and had taken from him his reason. Until comparatively recent times the field of mental disease has been so enwrapped in an atmosphere of mystery and the supernatural that it has been considered a field for the metaphysician and the moralist rather than for the physician.

No intelligent person believes to-day, however, that an insane person is possessed of a devil, and no one believes to-day that an insane person has in some unusual way transgressed spiritual laws. But there are intelligent people who still believe that disappointment in love, failure in business, masturbation, so-called overstudy and the like are important causes of mental disease. "Mortified pride," "agitation on the approach of matrimony," "metaphysical hairsplitting," "predisposition excited by novel reading," "the complete gratification of every wish of the heart," "changes from ordinary to vegetable and abstemious diet," are some of the assigned causes which are to be found in hospital reports of comparatively recent times. In a quite recent Ohio report I found Christian Science assigned as a cause of mental disease.

Because of the lack of understanding of the nature of the disease, because of the apparent mystery attached to it, and because of the manifold manifestations of the disease and its apparently manifold causes, mental disease has not been considered a fruitful

field for public hygiene. Were the factors formerly assigned as the causes of mental disease the true causes, there would be little room for mental hygiene, for people would continue to make love, to enter into business and to read novels, regardless of the possible danger of mental disease.

But the modern methods of study and research have been applied to mental disease within the last 20 years, just as they have been applied in other fields of medicine, and the results have been illuminating. The problem, considered as a whole, is confusing. But, like most large problems, it is found to be divisible into its several constituent parts, and these parts, considered separately, are in many instances found manageable. . . .

When we come to discuss the part that alcohol plays in the production of mental disease, we must speak with the greatest caution. There is already current a great deal of misunderstanding and misinformation on the subject. It is of the utmost importance that we distinguish between alcohol as a primary and fundamental factor in the production of mental disease and alcohol as a contributing or social factor in the production of mental disease. If we confuse the two, we shall be wholly misled in the results we may hope to obtain by proper prophylactic measures. Fifty years ago, before the causes of mental disease were really known, the superintendents of the insane hospitals in the country were united in their belief that alcohol was the chief cause of insanity, and the reports of those years devote pages to the discussion of the havoc wrought in mental life by alcohol. But, as so often happens, a more careful study of the problem has shown that the early reports are inaccurate, due to a frequent getting of the cart before the horse. The excessive drinking of alcohol, which leads to the production of what are known as the alcoholic psychoses, is frequently but a symptom of a previously existing and underlying nervous and mental condition. A comparatively mild, but important, type of mental disease exists in many of these individuals long before they become alcoholic, and their becoming alcoholic is, in fact, dependent largely upon this previous mental condition.

The feeble-minded individual who, because of his feeble-mindedness, has less resisting power to social temptations, and who con-

sumes alcohol to the point of developing alcoholic hallucinosis, figures in the statistics of our hospitals as a case of mental disease due to alcohol. Obviously, however, mental disease of a serious kind existed in the individual before he came to the attention of the hospital, and had there been no alcohol for him to consume, he would still have been a case of mental disease in the community, making for inefficiency, creating intricate social problems and multiplying his own kind. This is one type of individual who is coming to our hospitals with alcoholic mental disease, in whom alcohol is not the fundamental factor. Others are those suffering from mild attacks of maniac depressive insanity, certain types of dementia praecox and the psychoneuroses.

I wish to emphasize this point. If we assume that 20 per cent—and many enthusiasts have placed the figure at 80 per cent—of insanity is due to alcohol, and work upon that basis, we are going to find that with alcohol abolished, should the time come, we shall be disappointed in the comparatively small diminution that will take place in the amount of mental disease in the community. It is obvious, therefore, that the figures which are published to-day by the majority of our state hospitals as to the per cent of alcoholic psychoses in their institutions are not reliable as evidences of the amount of insanity produced by alcohol. That figure would be difficult to obtain, and I do not believe that any exact figure exists to-day. On the other hand, the figures which are issued annually by the state hospitals are of very great importance in showing the amount of mental disease that it is necessary to care for in our state hospitals at public expense because of alcohol. Had there been no alcohol in the community, the feeble-minded or neurotic individual who previously had been doing sufficiently well to maintain his place in the community would not have developed alcoholic hallucinosis, and would not have been brought to the state hospital, to be cared for at state expense. This is true of a large proportion of the alcoholic cases brought to the hospitals. Alcohol has not been the fundamental cause of their mental disease, but, granting their mild form of mental disease, alcohol has superimposed a serious condition which has made necessary their care in a hospital. I insist that this is a distinction with a real difference. It is of the utmost im-

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portance that, in our search for the causes of mental disease, we do not confuse cause with effect.

The part that alcohol plays in the fundamental production of insanity we do not know. On the other hand, in the consideration of the more immediately practicable problem—the amount of mental disease it is necessary to care for at public expense because of alcohol, we do know, and the figures are important.

The hospital reports of Massachusetts from 1910 to 1914 give the following as the per cents of patients admitted suffering from alcoholic psychoses :

Year	Per Cent
1910	22.15
1911	19.16
1912	17.40
1913	18.46
1914	18.99

In other words, Massachusetts, during this period, was forced to expend large sums of money to care for persons suffering from mental disease within its borders, and during these years from 17 to 22 per cent of the patients cared for were brought to the hospitals because of alcohol.

In New York, where a greater effort has been made to sift out alcohol as a fundamental cause rather than as a contributing cause, the per cent runs about 12. Where alcohol as a contributing factor is taken into consideration the per cents are somewhat larger than those in Massachusetts, running from 25 to 30 per cent.

It is difficult to ascertain, from Ohio reports, just what elements have been taken into consideration in reporting alcoholic cases, but the reports give a per cent of from 15 to 20. Hospitals in general agree at about the figure of 20 per cent. In other words, 20 per cent of the patients under public care in our hospitals for the insane are there because of alcohol. In considering the social and economic side of the problem of mental disease, these figures are important and are reliable. In considering the strictly medical and biologic side of the problem, these figures are not reliable, but for our immediate purposes this is not important.

A PRETTY KETTLE OF FISH

(An editorial in the *Louisville Courier-Journal*, December 12, 1916)

I

SATAN MASQUERADES AS A CHRISTIAN

Soon or late—there are those who think the sooner the better—the people of Kentucky will be brought face to face with a proposed Amendment to their Constitution abolishing the manufacture, sale and use of distilled and malt liquors within the State. This is called Prohibition. But it were more descriptively and accurately entitled a plan to destroy property, increase taxes and promote hypocrisy.

Elsewhere similar schemes of meditated reform have had this effect. Seventy-five years of drastic Prohibition have not expelled intoxicants from the State of Maine. In those States of the West and South to which it has been applied the result has been to drive the distemper inward, not to cure it. But in none of them have the actual interests at stake been nearly so great as they are in Kentucky. Here they mount to millions—many millions—and embrace thousands, tens of thousands, of citizens, who own property honestly acquired and pursue avocations from time immemorial recognized by law, menaced with sudden and complete extinguishment, the pretext being that men, and for the matter of that women, will drink, that sometimes they get drunk and that drunkenness is the root of all evil.

We live in a world of sin, disease and death; whence, we know not; why, we know not; whither, we know not; but it is a fair conjecture for some all-wise purpose.

Less than two thousand years ago there arrived on earth a Spirit claiming to come from Heaven and to bear a message from God. The Spirit seemed an exhalation of the dawn of a new and perfect

day. The message was radiant with love and truth. Alas, for frail humanity! Scarce had the blood of the Prince of Peace dried upon the cross on Calvary than the name of Christ, desecrated into a trade-mark, became throughout the Universe a tocsin of war.

Creeds sprang up like evil weeds by night, dividing tribes into hostile camps. Theology raised her horrid front across the Christian's line of march. Accretions multiplied and with them pride of possession. Temples were built, as fortresses of belligerent beliefs and prelates rode to actual battle. The material put the spiritual beneath its feet. Ambition rose to blight the soul—to harden the heart—to corrupt the mind—Satan dangling crowns and mitres and benefices, the insignia of temporal power, before the eyes of his victims. Thus Church and State—the Church without Religion, the State without Liberty—the gibbet and the stake for Conscience.

Two thousand years of greed and wrong—of cant and fraud—of terror and fear—and, lo, the hell-broth of blood served by the Devil to acclaim his rule and celebrate his triumph.

Taking heed of the source whence human woe and error have mainly sprung, no thoughtful man can doubt them, the emanations of the lust of the few for dominion over the many. The good Bishop of Winchester, who said, "Better have England free than sober," did not mean that it would be good to have England drunk. He meant that fanatacism is never satisfied; that yielded an inch in one direction it ever claims an ell in other directions; the sumptuary theory a delusion and snare.

Bringing the lesson of the ages through the experience of all lands home to Kentucky, what do we see and how stands the account? We behold a body of men and women of varying degrees of intelligence and integrity banded together to set aside not only the Bill of Rights, which lies as the bed-rock of our institutional freedom, but every semblance of Christian ethics, and, without either due process of law, or thought of compensation, or regard for the public welfare beyond a rule of fanatic reform which has nowhere achieved its aims, or realized its hopes, proposing indiscriminately to confiscate millions upon millions of dollars of property, improving none, impoverishing many, unjust and hurtful to all.

If the purpose of this spoliation were attained it would be an

act of irreligion; but if, to cure it of this, its advocates, mindful of the right of every man to his day in court, offered fair assessment and indemnity, the question would still recur upon the economic side would the tremendous sacrifice eliminate drunkenness? Nowhere, let us repeat, has it done this. But, everywhere, it has introduced evils and vices peculiarly its own. The most harmful of these has been that it has got into politics, making religion and morals the sport and prey of parties and public men, and corrupting legislation by making bribery both a personal and a political asset and giving a market value to cant, hypocrisy and humbug.

The dissolute candidate for office gets on the water wagon and preaches prohibition. The elected candidate preaching prohibition sells his vote to the beleaguered liquor interest. The Prohibition propaganda makes a merit and a reason of the crimes it has itself occasioned. The dupes recking not what they have done, dance about a conflagration, thinking it the while only a bonfire.

II

THEY DANCE THE TANGO AND DO THE PEOPLE

Occasional agitation of the question of this Amendment to the Constitution of Kentucky, prohibiting the manufacture, sale and use of distilled and malt liquors, sufficiently reveals the meretricious character of such discussions. Invariably they eddy around some irrelevant or unworthy interest. History attests that when moral problems get into politics they cease to be moral and become sordid. Venality gets in the saddle and rides to hounds; lust makes game of sentiment; and, amid the blare of horns and the eager, ever-increasing passion of the chase, thought equally of the underlying facts and the probable consequences is lost.

Government—good government—is not an affair of feeling but of law, and law, like the dews of Heaven, should fall, must fall alike upon the just and the unjust.

We have had a very recent example of the dishonesty of party leaders in dealing with the liquor dilemma. Certain Republican leaders would make Prohibition a Republican issue. They are down and out and have nothing to lose. Sumptuary legislation has al-

ways been good Republican gospel. With certain Democratic leaders, lacking the integrity of conviction and through selfish cowardice afraid to tackle error with truth, it is "rats to your holes." The people look in vain for disinterested, courageous, upright leadership, separating public policy from false sentiment and considering an important economic question without emotion.

In this matter at least the *Courier-Journal* has had no concealments or reserves. The fight for temperance against intemperance is an irrepressible conflict. But between the extremes of drunkenness and sobriety there are varying conditions and degrees.

The saloon, as we have often declared, is an indefensible quantity. Indeed, nothing can be said in rebuttal to all that is said about the use and abuse of strong drink. It is one of the roots of the evil that seems inseparable from the state and nature of man. If it could be exorcised by Constitutional Amendment, or Act of Assembly, it would richly repay the community to adopt the required measure of relief, paying from the public treasury for the property destroyed and bidding the outlawed to put their money into some other business.

Unhappily this is easier said than done. Mainly the unthinking say it, and, still more unhappily, the effort, where superficially successful, has nowhere reached the end desired by good people, but has brought with it a train of impositions peculiar in themselves and for the most part abhorrent both to morality and freedom.

The Cheap-John orator, the mere office-seeking politician, finds it readier to stir the blood of the voters than to appeal to their reason. In ordinary affairs no great harm in this. But there lurks behind every agitation the danger of fanaticism, which, when aroused, is the world over unreflecting and unsparing. It is conceivable that when this spirit has blown up the breweries and burned down the distilleries, it could turn on the tobacco beds under the plea that the weed is a poison, and, having destroyed them, next address itself to the elimination of hardware and cutlery as the only means of stopping pistol-toting, with its wanton sacrifice of life.

The fanatic seizes upon anything that excites his ire. Take, for example, coffee. It is in the view of many people a dangerous stimulant, its frequent use, they aver, undermines the constitution,

causes nervous disorders and breaks up the peace and happiness of families; therefore, the business of Mr. A. and Mr. B. and all who own property in coffee and its production should be stopped. To this end the owners of property in coffee shall be invited by act of legislature to defend their lawful property, not at a public hearing by suit in court, nor by any process known to the Constitution under the State's right of eminent domain, but by placing bits of paper in a box. If the property owners in coffee are unable to put as many slips in a box as their opponents, the property is forfeited and outlawed and it becomes a crime to have or sell coffee. The demand of the Bill of Rights for just compensation when property is taken for a public purpose is denied. Is not this as primitive as the ancient trial by combat?

The fanatic tells us that liquor is not property—that distilleries are not property—that breweries are not property. As easy to say that tobacco is not property—that hardware and cutlery, powder and ball, are not property—that coffee is not property. There was never any difficulty in defining property until certain persons began to hold that some articles of lawful commerce under the law of nations and the statutes of the United States can be property and not property at the same time—property for purposes of taxation, but not property and not entitled to the protection of the Bill of Rights, when some organized cult wishes to destroy it—the claim going back to anti-slavery times and originating in the fanatic spirit of Abolitionism.

Then, as now, the fanatic took no account of collateral questions; the sincerer he was the surer; freedom being the birthright of every man, no man should be enslaved. Slavery was accursed, just as rum is. The slave-owner was a villain just as the distiller or the brewer is. The South was a land of Godless slave-drivers. It mattered not that the North had brought the negro here in its ships, and, finding slave labor unprofitable, had sold its slaves to the South. It mattered not that the negro was contented with his lot; better off than he was in Africa; a racial inferior, unripe for freedom. It mattered not that the institution of slavery had been sanctioned by the world and imbedded in the organic law. It must go. It must go at once. So, we had a great war, with incalculable losses, myri-

ads of unoffending women and children in the South impoverished by the confiscation of slave property, then and there laying the axe at the root of any property which fanaticism chooses to call immoral.

One would think that even the living generation of Kentuckians know enough about this, many of them having suffered by it, to stop a little and think a lick or two before consigning millions of dollars of property expressed in distilleries and breweries, and contiguous pursuits, to destruction without just compensation, or due process of law.

* * * * *

It is a dangerous thing to deny any man his day in court. It is yet a more dangerous thing to swoop down upon whole communities with a torch which, having done no great harm in the country, may therefore be safely applied to the town, the plea being a lottery chance in morality and virtue. The Kentuckians who fought for liberty—who, descended from the Englishmen who established Magna Charta, came to Virginia and set up the Bill of Rights—the men of the Thames and Tippecanoe and the River Raisin, must turn over in their graves to hear of such degeneracy equally to law and common sense. . . .

NEW ZEALAND LIQUOR REGULATIONS

At the Government House at Wellington, this twenty-first day of August, 1916

Present:

His Excellency The Governor In Council.

I, ARTHUR WILLIAM DE BRITO SAVILE, Earl of Liverpool, Governor of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, do hereby in pursuance of the War Regulations Act, 1914, and its amendments, make the following regulations; and I do hereby, with the like advice and consent, declare that these regulations shall come into operation on the twenty-eighth day of August, one thousand nine hundred and sixteen.

REGULATIONS

1. In these regulations—

“Licensed premises” means premises in respect of which a publican’s or an accommodation license is in force under the Licensing Act, 1908; and includes the premises of a chartered club under the Act, and also any place in which intoxicating liquor may be sold in pursuance of a conditional license under the Act:

“Licensee” means the holder of any such license, and includes the secretary of any such chartered club:

“Bar” means a public or private bar on licensed premises; and includes any part of such premises which is principally or exclusively used for the sale, supply, or consumption of intoxicating liquor:

“Bar-attendant” means any person employed or serving in any capacity in a bar, other than the licensee.

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2. The following acts are hereby declared to amount to treating within the meaning and for the purpose of the War Regulations Amendment Act, 1916, and these regulations:—

- (1.) The act of any person who directly or indirectly—
 - (a.) Pays, or undertakes or offers to pay; or
 - (b.) Gives or lends, or offers or undertakes to give or lend money with which to pay—
for any intoxicating liquor sold or to be sold on licensed premises for consumption on or about those premises by any persons other than the person first mentioned:
- (2.) The act of any person who purchases intoxicating liquor on licensed premises, and invites or permits any other person to consume that liquor on or about those premises:
- (3.) The act of any person who on licensed premises purchases or offers to purchase intoxicating liquor with intent that it shall be consumed on or about those premises by any other person:
- (4.) Any other act done by any person with intent that any other person shall consume on or about licensed premises any intoxicating liquor other than liquor purchased and paid for by the consumer with his own money. Money lent or given to any person upon licensed premises, or lent or given to him elsewhere with intent that it shall be spent in the purchase of intoxicating liquor, shall, for the purposes of these regulations, be deemed not to be his own money.

3. Every person who does any act which amounts to treating commits an offence against these regulations.

4. Every person who on or about licensed premises receives or consumes intoxicating liquor in respect of which an offence against these regulations has been committed by any other person shall himself be guilty of an offence against these regulations.

5. Every licensee, bar-attendant, or servant of a licensee who knowingly sells, supplies, or receives payment for any intoxicating liquor in respect of which an offence against these regulations has

been or is intended to be committed by any other person shall himself be guilty of an offence against these regulations.

6. Every licensee or bar-attendant who permits the commission on the licensed premises of any offence against these regulations shall himself be guilty of an offence against these regulations.

7. Every licensee on whose licensed premises any offence is committed against these regulations shall be deemed to have permitted that offence, and shall be liable accordingly, unless he proves that it was committed without his knowledge, acquiescence, or connivance, and that he took all reasonably practical measures by way of personal supervision or otherwise to prevent the commission of offences against these regulations.

8. (1.) Every bar-attendant, other than a member of the family of the licensee, who is convicted of an offence against these regulations shall be disqualified for the period of six months thereafter from being employed or serving in any capacity in or about the same or any other licensed premises.

(2.) If any person while so disqualified is employed or serves in any capacity in or about any licensed premises he shall be guilty of an offence against these regulations.

9. If in any prosecution for an offence against these regulations the evidence produced by the informant or the facts as admitted are sufficient to constitute a reasonable cause of suspicion that the defendant is guilty of the offence charged, the burden of proving that the offence was not committed shall lie upon the defendant.

10. For the purposes of these regulations the supply of intoxicating liquor for a pecuniary consideration on the premises of a chartered club under the Licensing Act, 1908, shall be deemed to be a sale of such liquor.

11. (1.) Nothing in the foregoing regulations shall apply to the supply or consumption of intoxicating liquor as part of a meal served and consumed upon the licensed premises elsewhere than in a bar thereof.

(2.) "Meal" means a meal served not earlier than noon and not less substantial than an ordinary mid-day meal.

12. Nothing in the foregoing regulations shall apply to any act of treating on licensed premises (elsewhere than in a bar thereof)

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by a boarder or other person *bona fide* resident on those premises.

13. No woman (other than the licensee, or a servant of the licensee, or a member of the licensee's family) shall at any time after six o'clock in the evening enter or remain in the bar of any licensed premises or loiter about the entrance to any such bar.

14. (1.) Every constable may at all times by day or night, and on any day of the week, enter without warrant—

(a.) Any licensed premises; or

(b.) Any premises on which he reasonably suspects that any offence against these regulations or against the provisions of the Licensing Act, 1908, relative to the sale of intoxicating liquor by unlicensed persons, has been or is about to be committed—

and may search the said premises and every part thereof, and may seize any intoxicating liquor found on any premises so entered, other than licensed premises.

(2.) Every person who resists or obstructs a constable in the exercise of the powers so conferred upon him, or who fails or refuses to afford to a constable immediate entrance to any such premises or to any part thereof, shall be guilty of an offence against these regulations, and shall be liable accordingly.

15. These regulations shall be read together with and deemed part of the War Regulations of the 10th day of November, 1914.

J. F. ANDREWS,

Clerk of the Executive Council.

PROHIBITION HYPOCRISY

Speech of John Sharp Williams of Mississippi
(In the United States Senate, December 18, 1916)

Does this bill present a question of morality or a question of constitutionality, either? Everybody knows it presents neither. I started my political life in opposition to prohibition, in opposition to any sort of attempt upon the part of government to fetter a man's private life. There is no morality involved in it, no question of constitutional power; and I stand here and dare say that I consider myself instructed by the State of Mississippi, my sovereign and my master in all questions involving neither absolute immorality nor unconstitutionality, to vote for prohibitory legislation. I am going to take that back. It is not prohibitory at all.

None of you are prohibitionists. None of you ever had the courage to be. You stand here and talk of prohibition as if it were a moral question, and you make it geographical morality by saying that if a man sells me a drink in the State of Mississippi, or, if this bill passes, in the District of Columbia, he is a felon, but if he sends it to me from Boston or St. Louis, equally a seller, he is not. That is geographical morality, if it is any sort of morality at all.

And, then, you stand for quantitative morality. A man may sell me a quart a month, but he can not sell me any more. In the first case he is a law-abiding citizen, and in the second a criminal. That is quantitative morality with a vengeance. And so you go through with the whole thing.

Sometimes it is a which-side-of-the-bar morality. Is there any difference between the man who stands on that side of the bar and sells me a drink, so far as that individual act is concerned, and me, who stands upon the other side of the bar buying the drink? And yet there is no one of you who dares make it a crime to buy a drink. Why? Why, you would affect Supreme Court Judges, august Senators, Members of this august body, Cabinet members,

some generals, and a few admirals. You would interfere with gentlemen in their private pleasures, instead of merely interfering with tradesmen in their pursuit of business.

I get a little tired of it, as far as I am concerned. I have seen it go on year by year, come up to a certain point, and then the next year go a little bit further, until after a while you never knew where it was going to stop; and I am ready now to vote for the whole thing. I am ready to vote for an amendment to this bill to put a fine of not less than \$300 and imprisonment of not less than six months upon any man who buys or sells a drink in the District of Columbia. I want to see the thing brought to an issue, because until it is brought to an issue you will never find out how many people are going to rebel against it in a free Government.

Mr. President, in a matter affecting the daily life and habits of living of the people in their very homes there can, in my opinion, be no question at all of the political wisdom and the morality and the constitutional right of submitting a law involving these things to the people themselves thus affected. Mississippi is a prohibition State. I consider myself as a representative instructed by her will in a matter which should overbalance my will. But Mississippi never said to me that I should deprive the people of the District of Columbia of the power and the right to sit in judgment themselves upon this question, in judgment upon which the people of Mississippi sat for themselves. Mississippi would have resented a claim upon the part of a Texan or Californian or a man from Utah or a man from New Hampshire to tell her whether she should or should not be governed by certain laws with regard to this particular subject matter.

Now, then, I think the next most important thing after providing that these people shall be consulted in a manner which comes right home to them, just as, in my opinion, I think they ought to be consulted about their schools and about a dozen other things which come right home to them, is to find the proper electorate. My quarrel is not with the bill itself, except that I do not think the bill is sufficiently drastic. I think while you are making the issue you ought to pass a prohibition bill and say so, and face it. It will be as much a personal and individual inconvenience to me as to almost

any of you, but I am willing to stand up and be honest and square and make a crime of buying intoxicants. The sin or crime is neither in the buying or the selling per se; it is in the effect of the thing bought and sold after its consumption. Put a judge on the Supreme Court, put a member of the Cabinet, put a Senator in jail for it! make it a felony, so as to evade that clause of the Constitution which says you can not arrest a Member of Congress while he is here "except for a felony or a breach of the peace," or make it a breach of the peace. Be square about it. Bring it home to you and me, and be brave about it!

Mr. President, a great deal of what I have said was rather irrelevant to the subject matter, but I do hope sure enough, and I am seriously speaking to my friend from Texas and to others for whose intelligence and character I have very high regard—I do hope that the very utmost point which gentlemen want to go to in this legislation will be at some particular moment frankly avowed and confessed, so that society can line up on one side of it or the other. I do hope that this little thing of taking 10 bites at one cherry will stop, because it is a great deal more nagging than it is to eat up the whole cherry at once and be done with it. It is a great deal less trouble to humanity generally, and it is a good deal less trouble to a man, to be soundly whipped than it is to be nibbled at for a week at a time. So I hope at some time you may put in the shape of a bill that which is your ultimate goal, the point beyond which you do not intend to go, and then let us get through with it one way or the other—getting through to a final result of fixed policy is a good thing.

I tell you it is dangerous not to do that. You remember the history of the immorality that came about as a result of the overthrow of the puritanical power in Great Britain. First from one little thing to another the Puritans went, interfering with what men rightfully or wrongfully thought were their rights—wrongfully generally, just as in this case—until they got men into a state of revolt, not against a particular wrong thing that was being done but against every legislative attempt to make them do right, and everything called by the name of religion or morals went by the

board for a while. It took a long time afterwards to get things gathered together in a common-sense way.

Now, do not begin with this and come back here next year and go a little bit further, and come back the next Congress and go to the Smoot bill, and then come back five years from now and go to the Williams amendment, making it an absolute crime to buy a drink. Do it all at one time. If you are not going to do it on this bill do it in the next Congress, anyhow, and let the people to be affected see how far you are going, so that they may make up their minds whether they want to go with you or part company with you.

I think another thing about this sort of legislation—and while I am about it I am going to get it all off my mind—I think that Abraham Lincoln was right when he said we ought not only to consult the District of Columbia about their willingness to abolish slavery, but that we ought to indemnify the slaveholders for the property loss. And I think our English cousins are right. When they make laws of this sort they calculate the loss of property to the man affected by them and pay him a reasonable price for it. That is honest, too. Why, I knew the State of Mississippi once to do this, Senators, just to show you how far this sort of legislation can go. Long years ago she passed a law to provide for a lottery, and a man paid \$50,000 into the State treasury to have the privilege of that lottery. Then the next legislature that met abolished the lottery law, and Mississippi kept his \$50,000.

I knew Mississippi to do this once: To pass a pint liquor law, and after five men in my own town had paid their annual license for one year in advance, to repeal that law without returning the license money and indict each one of those five men for selling under it. They got out because they plead that they did not know the legislature had repealed the law, and the judge was easy upon them; but they had paid their licenses for a property privilege a year in advance, and the minimum one of them had gotten of enjoyment of the license was, I believe, two weeks out of it, and the maximum about two months. That sort of thing is not honest, I do not care how highly moral it is—geographically moral, quantitatively moral, this-side-or-that-side-of-the-bar moral—it is not plain, old-fashioned English honesty. If you have given a fellow a thing of value for a

price and you take the thing of value away from him, you ought to give him back the price, no matter how contemptible you think the calling may be which you by your law invited him to pursue and for which he paid you a price.

WHAT THE ENCYCLOPEDIA SAYS

Appended will be found excerpts from the articles on "Liquor" and "Temperance" in the latest edition of the Encyclopedia Britannica.

In view of the widespread interest in the subject, the comment of this great authority is of great importance:

LIQUOR LAWS

In most western countries the sale of alcoholic liquor is regulated by law. The original and principal object is to check the evils arising from the immoderate use of such liquor, in the interest of public order, morality and health; a secondary object is to raise revenue from the traffic. The form and the stringency of the laws passed for these purposes vary very widely in different countries according to the habits of the people and the state of public opinion.

The evils which it is desired to check are much greater in some countries than in others. Generally speaking they are greater in northern countries and cold and damp climates than in southern and more sunny ones. Climate has a marked influence on diet for physiological reasons over which we have no control. The fact is attested by universal experience and is perfectly natural and inevitable, though usually ignored in those international comparisons of economic conditions and popular customs which have become so common. It holds good of both food and drink.

The inhabitants of South Europe are much less given to alcohol excess than those of central Europe, who again are more temperate than those of the north. There is even a difference between localities so near together as the east and west of Scotland. The chairman of the prison commissioners pointed out before a British

royal commission in the year 1897 the greater prevalence of drunkenness in the western half, and attributed it in part to the dampness of the climate on the western coast.

But race also has an influence. The British carry the habit of drinking wherever they go, and their colonial descendants retain it even in hot and dry climates. The Slav peoples and the Magyars in central Europe are much more intemperate than Teutonic and Latin peoples living under similar climatic conditions.

These natural differences lead, in accordance with the principle discerned and enunciated by Montesquieu, to the adoption of different laws, which vary with the local conditions. But social laws of this character also vary with the state of public opinion, not only in different countries, but in the same country at different times. The result is that the subject is in a state of incessant flux. There are not only many varieties of liquor laws, but also frequent changes in them, and new experiments are constantly being tried. The general tendency is towards increased stringency, not so much because the evils increase, though that happens in particular places at particular times, as because public opinion moves broadly towards increasing condemnation of excess and increasing reliance on legislative interference. The first is due partly to a general process of refining manners, partly to medical influence and the growing attention paid to health; the second to a universal tendency which seems inherent in democracy.

HEREDITY

It has long been generally assumed that the children of alcoholics suffer in body and mind for the sins of their parents, that they are weak, diseased and defective; and it is very often assumed that they inherit an alcoholic craving. The latter assumption is not admitted by scientific students of the question, but the former has been generally held, though without any proof. It has been made the subject of a statistical investigation (1910) in the Eugenics laboratory of London University by Miss E. M. Elderton and Professor Karl Pearson. The object was to "measure the effect of alcoholism in the parents on the health, physique and intelligence

of their offspring," whether by toxic or environmental influence, but not by the transmission of original defective characters, which is omitted from the inquiry. The material used is a report by the Edinburgh Charity Organization Society on the children in one of the Edinburgh schools and one by Miss Mary Dendy on those in special schools of Manchester.

The number of children is not stated, but so far as can be gathered from the tables of the Edinburgh inquiry covered about 1,000 and the Manchester inquiry about 2,000. The ages were from 5 to 14 (Edinburgh report), and both sexes are included in approximately equal numbers. The general conclusion reached is that "no marked relation has been found between the intelligence, physique or disease of the offspring and parental alcoholism in any of the categories investigated." The principal particular conclusions reached are as follows: Higher death-rate in alcoholic than in sober families, more marked in the case of mother than of father, but alcoholic parents more fertile, and therefore net family about equal; height and weight of alcoholic children slightly greater, but when corrected for age slightly less; general health of alcoholic children slightly better, markedly so in regard to tuberculosis and epilepsy; parental alcoholism not the source of mental defect in children; no perceptible relation between parental alcoholism and filial intelligence.

These conclusions, which run counter to current opinions, have been much criticized, and it is true that the scope of the inquiry is inadequate to establish them as general propositions. Moreover, the chronological relation of parental intemperance to the birth of the children is not stated. But so far as it goes the investigation is sound and it is the first attempt to treat the subject in a scientific way. Nor is there anything in the conclusions to surprise careful and unbiassed observers. The existence of a broad relation between superior vigor and an inclination for alcoholic drinks was pointed out years ago by the writer; drinking peoples are noticeably more energetic and progressive than non-drinking ones. It is the universal experience of shipmasters that British seamen, whose intemperance causes trouble and therefore induces a preference for more sober foreigners, exhibit an energy and endurance in

emergency of which the latter are incapable. Similar testimony has repeatedly been borne by engineers and contractors engaged in large works in the south of Europe. And that acute observer, Miss Loane, has related a particular and striking case in regard to offspring from her own experience, which is curiously in keeping with the conclusions of the Eugenics laboratory. The question, however, needs much more elucidation.

The whole subject has, in truth, got somewhat out of perspective. The tendency of the statistical and experimental investigations, summarized above into the relations of alcohol with crime, mortality, disease, etc., has been to obliterate the distinction between the use and the abuse of alcohol, between moderate and excessive drinking, and to bring into relief all the evils associated with excess, while ignoring the other side of the question. It is legitimate and desirable to emphasize the evils, but not by the one-sided and fallacious handling of facts. Alcoholic excess produces the evils alleged—though not to the extent alleged—but there is no evidence to show that its moderate use produces any of them. Yet they are all put down to “alcohol,” and the inference is freely drawn that its abolition would practically put an end to crime, vice, poverty and disease without any counterbalancing loss whatever. The facts do not warrant that inference, nor has mankind at large ever accepted it.

Both the statistical and experimental evidence is full of fallacies, and especially the latter. The pathological investigations on the action of alcohol referred to above elucidate the organic changes which the tissues undergo in the chronic inebriate who is saturated with spirit, but to draw the inference that alcoholic liquors taken in moderation and consumed in the body have any such action is wholly fallacious. In point of fact we know that they have not. But there is more than that. These experiments only take cognizance of alcohol; they ignore the other substances actually consumed along with it. Some of these, and notably sugar, are recognized foods; the balance of opinion on the vexed question whether alcohol is itself a food—which really depends on what is meant by food—is now on the side of alcohol. But in addition to the principal constituents, easily separable by analysis, are many other substances

of which science takes no cognizance at all; they are not identified. They may be in minute quantities yet extremely powerful, as are many other vegetable extractives. We know that they exist by their taste and their effect; they make the difference between port and sherry, between claret and Burgundy, between one vintage and another, between brandy and whiskey; differences unknown to chemistry—which only recognizes alcohol, and knows very little about that—but vastly important to the human organism.

Another group of experiments are equally fallacious in a different way. The effect of alcohol in mental operations is tested by the comparative speed and ease with which work is done after a dose and without it. The effect has been found to be diminished speed and ease; but these experiments do not apply the same test to a good meal or a sound sleep or hard exercise. The writer finds in concentrated mental work that the immediate effect of even a small dose of alcohol is to impair efficiency, but the other three do so in a much higher degree. The inference is not that these are injurious, but that the proper time for each is not just before work; after work he finds them all, alcohol included, beneficial. The mortality statistics are treated in a similar one-sided way. They clearly show the injury done by the abuse of alcohol, but what of its moderate use? Agricultural laborers are the most typical moderate drinking class, and they are one of the healthiest in spite of exposure, bad housing and poverty. If all the unhealthiness of those who drink hard is referred to their drink, then the healthiness of those who drink moderately should be referred to it too.

The absolute condemnation of alcoholic drinks has never been endorsed by public opinion or by the medical profession, because it is contradicted by their general experience. That many persons are better without any alcohol, and that many more would be better if they took less than they do is undeniable; but it is equally undeniable that many derive benefit from a moderate amount of it. Sir James Paget, than whom no man was more completely master of his appetites or better qualified to judge, drank port wine himself because he found that it did him good. He represents the attitude of the medical profession as a whole and of temperate men in general.

Attempts to support the case for abolishing the use of alcoholic liquors by denying them any value and by attributing to them effects which spring from many other causes, do not carry conviction or advance the cause of temperance. A much stronger argument lies in the difficulty of drawing a definite line between use and abuse; they tend to merge into one another, and it may be urged that the evils of the latter are sufficiently great to justify the abandonment of the former. But the use of most things is open to the same objection, and mankind at large has never consented to forego the gratification of a natural appetite because it is liable to abuse. Nor is there any sign of an intention to make an exception in favor of alcohol. On the other hand, moderation is attainable by every sane individual. It is in fact observed by the great majority and to an increasing extent. There is a line between use and abuse, and every one knows where it really is in his own case. If he cannot draw it let him abstain, as Dr. Johnson did for that reason.

But society can do much to assist the individual by inculcating moderation, setting a standard promoting its maintenance by helpful environment, discouraging excess and diminishing temptation. All the evidence points to those means as the effective agents in securing the improvement which has taken place in Great Britain.

STATE PROHIBITION

In a few states no licenses are allowed. State prohibition was first introduced in 1846 under the influence of a strong agitation in Maine, and within a few years the example was followed by the other New England states; by Vermont in 1852, Connecticut in 1854, New Hampshire in 1855 and later by Massachusetts and Rhode Island. They have all now after a more or less prolonged trial given it up except Maine. Other states which have tried and abandoned it are Illinois (1851-1853), Indiana (1855-1858), Michigan, Iowa, Nebraska, South Dakota. The great middle states have either never tried it, as in the case of New York (where it was enacted in 1855, but declared unconstitutional), Pennsylvania, New Jersey or only gave it a nominal trial, as with Illinois and Indiana.

A curious position came about in Ohio, one of the great industrial states. It did not adopt prohibition, which forbids the manufacture and sale of liquor; but in 1851 it abandoned licensing, which had been in force since 1792 and incorporated a provision in the constitution declaring that no license should thereafter be granted in the state. The position then was that retail sale without a license was illegal and that no license could be granted. This singular state of things was changed in 1866 by the "Dow Law," which authorized a tax on the trade and rendered it legal without expressly sanctioning or licensing it. There was therefore no licenses and no licensing machinery, but the traffic was taxed and conditions imposed. In effect the Dow Law amounted to repeal of prohibition and its replacement by the freest possible form of licensing. In Iowa, which early adopted a prohibitory law, still nominally in force, a law, known as the "mulct law" was passed in 1894 for taxing the trade and practically legalizing it under conditions. The story of the forty years struggle in this state between the prohibition agitation and the natural appetites of mankind is exceedingly instructive; it is an extraordinary revelation of political intrigue and tortuous proceedings, and an impressive warning against the folly of trying to coerce the personal habits of a large section of the population against their will. It ended in a sort of compromise, in which the coercive principle is preserved in one law and personal liberty vindicated by another contradictory one. The result may be satisfactory, but it might be attained in a less expensive manner. What suffers is the principle of law itself, which is brought into disrepute. State prohibition, abandoned by the populous New England and central states, has in recent years found a home in more remote regions. In 1907 it was in force in five states—Maine, Kansas, North Dakota, Georgia and Oklahoma; in January, 1909, it came into operation in Alabama, Mississippi, and North Carolina; and in July, 1909, in Tennessee.

LOCAL PROHIBITION

The limited form of prohibition known as local veto is much more extensively applied. It is an older plan than state prohibi-

tion, having been adopted by the legislature of Indiana in 1832. Georgia followed in the next year, and then other states took it up for several years until the rise of state prohibition in the middle of the century caused it to fall into neglect for a time. But the states which adopted and then abandoned general prohibition fell back on the local form, and a great many others have also adopted it. In 1907 it was in force in over 30 states, including all the most populous and important, with one or two exceptions. But the extent to which it is applied varies very widely and is constantly changing, as different places take it up and drop it again. Some alternate in an almost regular manner every two or three years, or even every year; and periodical oscillations of a general character occur in favor of the plan or against it as the result of organized agitation followed by reaction. The wide discrepancies between the practice of different states are shown by some statistics collected in 1907, when the movement was running favorably to the adoption of no license. In Tennessee the whole state was under prohibition with the exception of 5 municipalities: Arkansas, 56 out of 75 counties; Florida, 35 out of 46 counties; Mississippi, 56 out of 77 counties; North Carolina, 70 out of 97 counties; Vermont, 3 out of 6 cities and 208 out of 241 towns. These appear to be the most prohibitive states, and they are all of a rural character. At the other end of the scale were Pennsylvania with 1 county and a few towns ("Town" in America is generally equivalent to "Village" in England); Michigan, 1 county and a few towns; California, parts of 8 or 10 counties. New York had 308 out of 933 towns; Ohio, 480 towns out of 768; Massachusetts, 19 out of 33 cities and 249 out of 321 towns. At the end of 1909 a strong reaction against the prohibition policy set in, notably in Massachusetts.

There is no more uniformity in the mode of procedure than in the extent of application. At least five methods are distinguished. In the most complete and regular form a vote is taken every year in all localities whether there shall be licenses or not in the ensuing year and is decided by a bare majority. A second method of applying the general vote is to take it at any time, but not oftener than once in four years, on the demand of one-tenth of the electorate. A third plan is to apply this principle locally and put the question

to the vote, when demanded, in any locality. A fourth and entirely different system is to invest the local authorities with power to decide whether there shall be licenses or not; and a fifth is to give residents power to prevent licenses or not; by means of protest or petition. The first two methods are those most widely in force, but the third plan of taking a local vote by itself is adopted in some important states, including New York, Ohio, Illinois. Opinions differ widely with regard to the success of local veto, but all the independent observers agree that it is more successful than state prohibition, and the preference accorded to it by so many states after prolonged experience proves that public opinion broadly endorses that view. Its advantage lies in its adaptability to local circumstances and local opinion.

It prevails mainly in rural districts and small towns; in the larger towns it is best tolerated where they are in close proximity to "safety valves" or licensed areas in which liquor can be obtained; the large cities do not adopt it. On the other hand, it has some serious disadvantages. The perpetually renewed struggle between the advocates and opponents of prohibition is a constant cause of social and political strife; and the alternate shutting up and opening of public houses in many places makes continuity of administration impossible, prevents the executive from getting the traffic properly in hand, upsets the habits of the people, demoralizes the trade and stands in the way of steady improvement.

PREFACE TO A PROHIBITION TRACT

(Don Marquis in the *New York Evening Sun*)

Nation-wide Prohibition, when it comes . . . and the little book to which this is a preface proves that it is on the way . . . will be a grand good thing.

It will bring back the romance into drinking.

* * *

At present there is no thrill of adventure to be had from walking into a barroom and ordering a drink; there is as much to be got out of going into the post office and buying a stamp.

* * *

It is true that the barroom has its attractions; there is the pleasurable physical glow, suffusing the human innards, that comes from the drink itself; there is the mental excitement and there is the psychic stimulation. But these attractive things are often balanced by depression; and the attraction of sociability down in the licensed saloon is balanced by the certainty that one will meet bores there; barroom bores whom one must suffer or go to some trouble to dodge.

The barroom, as at present constituted, has almost as many drawbacks as recommendations.

* * *

But when Prohibition comes, and barrooms are abolished, and one must seek out a blind pig, drinking will assume a different and a more winsome aspect. In addition to the pleasure of drinking there will be the zest of disobeying the law, defying the constituted authorities, flouting the will of the majority.

* * *

Men who drink now merely from habit will find a new thrill in it when it is forbidden.

Something that is as dull as duty to them will suddenly become a delight once more through being surrounded with difficulties and

hazards. Prohibition will bind with a new warp of color the drab woof of alcoholism.

* * *

Especially to boys and young men who are not now drinkers will liquor appeal when once it has been outlawed.

The adolescent male of the human species dwells amidst perpetual mental and spiritual excitements, not able from moment to moment to determine whether he would rather be a picturesque criminal or a religious hero.

The thing he does not want to be is the thing which he perceives the majority of his commonplace elders, whose instinct for protective coloring has made them neutral and negative, have become.

* * *

The youth seeks for a gleam of poetry in existence; he hunts for glamour; he craves initiation into mysteries, Eleusinian or any other. He likes anything in the nature of a secret meeting, anything with a conspiratorial look about it; the blind pig will furnish him with just enough of the tang and flavor of adventure to capture him; he will conquer his natural antipathy to the villainous liquors served in such places and learn to drink them even if they burn holes in his neck going down.

* * *

And is it not desirable that the young man, during the formative period of his life . . . (how could we get along without that phrase "During the formative period of his life"?) . . . should enjoy the moral advantages to be derived from association of older men who have steadfastly refused to conform to the laws and conventions which the majorities seek to impose?

This is a question for the moralists; we throw it out for them to grapple with; we can't answer it.

* * *

The friendships that will spring up among those who meet each other in blind pigs will be much closer than among those who meet in ordinary licensed saloons. They will be like a little band of brothers. The sense that they are all outlaws together will induct them into an intenser spiritual intimacy each one with all the others.

* * *

It is always so with outlaws and idealists ; with those who oppose themselves to the ruling power for the most selfish of reasons and those who rebel for the most unselfish of reasons. Rebellion is the essence of the bond.

* * *

There are no stories lovelier in all history than the tales of the mutual affection and faith among the founders and leaders of religious movements persecuted by a majority. The knowledge that they are opposed to the majority draws them together no less than the fervor of their belief. The idealist and the outlaw discover a fellowship shot through with emotional color and heats and vibration, and not any desire for the betterment of the world in general,

* * *

Speaking personally, it is only our native conservatism and ingrained reactionary habit of mind which prevents us from envying in this respect certain radical groups, for revolutionists are often both outlaws and idealists, and therefore doubly susceptible to spiritual excitements and exaltations.

* * *

When Prohibition comes, and brings us the blind pig, there will follow . . . but no. Prophecy (as we seem to have read somewhere) is dangerous.

* * *

Perhaps there is an unconscious selfishness in our advocacy of nation-wide Prohibition.

Ourself, we have lost interest in drinking. It seems to us useless ; there isn't any fun in it.

But if Prohibition came our interest would undoubtedly revive. We would find a fresh pleasure in it. And it may be this consideration, and not any desire for the betterment of the world in general, which makes us wish for Prohibition.

Perhaps. We are not sure. A person can make shrewd or lucky guesses now and then concerning the motives of others. But what does any man know about himself?

APPENDIX

TABLES OF STATISTICS

INTERNAL REVENUE

A.—COMPARATIVE STATEMENT Showing the RECEIPTS from FERMENTED LIQUORS during the Fiscal Years, ended June 30, 1915 and 1916.

Objects of Taxation	Receipts during fiscal years ended June 30		Increase	Decrease
	1915	1916		
Ale, beer, lager beer, porter, and other similar fermented liquors.....	\$78,460,380.97	\$87,875,672.22	\$9,415,291.25	.....
Brewers' special tax, less than 500 barrels, per annum...	3,385.45	4,377.10	991.65	.....
Brewers' special tax, more than 500 barrels, per annum...	121,333.70	123,854.18	2,520.48	.....
Retail dealers in malt liquors (special tax)	241,018.65	249,153.55	8,134.90	.....
Wholesale dealers in malt liquors (special tax).....	502,827.95	518,046.94	15,218.99	.....
Total.....	\$79,328,946.72	\$88,771,103.99	\$9,442,157.27	.....

A½.—COMPARATIVE STATEMENT Showing the RECEIPTS from FERMENTED LIQUORS during the first 3 months of the fiscal year ended June 30, 1916, with the first 3 months of the (current) fiscal year ending June 30, 1917.

Objects of Taxation	1916 July 1, 1915 to Sept. 30, 1915	1917 July 1, 1916 to Sept. 30, 1916	Increase	Decrease
Ale, beer, lager beer, porter, and other similar fermented liquors.	\$26,197,848.47	\$29,220,062.96	\$3,022,214.49	.....
Brewers' special tax, less than 500 barrels per annum.....	42,891.68	33,381.27	.....	\$9,510.41
Brewers' special tax, more than 500 barrels per annum.....				
Retail dealers in malt liquors (special tax)..	122,335.86	98,311.94	.....	24,023.92
Wholesale dealers in malt liquors (special tax).....	199,858.98	181,409.09	.....	18,449.89
Total.....	\$26,562,934.99	\$29,533,165.26	\$3,022,214.49	\$51,984.22

Net Increase, \$2,970,230.27

The quantity of Fermented Liquors manufactured during the fiscal years 1915 and 1916, is as follows:

1916 1915

Number of barrels..... 58,633,624¹ 59,808,210²

¹ Includes 69,116 barrels removed from breweries for export, free of tax.

² Includes 61,509 barrels removed from breweries for export, free of tax.

THE 1916 YEAR BOOK OF

COMPARATIVE STATEMENT Showing the INTERNAL REVENUE RECEIPTS (TAX PAID PRODUCTIONS) from MALT LIQUORS for the Twelve Months ended June 30, 1915 and 1916.

MALT LIQUORS

Months	Fiscal Year 1915	Fiscal Year 1916	Increase	Decrease
1914-1915				
July.....	\$6,998,152.32	\$9,196,346.83	\$2,198,194.51	.....
August.....	6,336,376.12	8,598,625.11	2,262,248.99	.....
September...	5,847,076.93	8,405,111.53	2,558,034.60	.....
October.....	6,668,955.51	6,851,534.40	182,578.89	.....
November....	5,637,094.27	6,579,521.95	942,427.68	.....
December....	6,218,452.78	6,462,176.86	243,724.08	.....
1915-1916				
January.....	5,336,730.00	5,387,671.50	50,941.50	.....
February....	5,352,948.00	5,595,922.50	242,974.50	.....
March.....	6,242,359.50	6,553,023.00	310,663.50	.....
April.....	7,563,636.00	6,770,268.00	.....	\$793,368.00
May.....	7,381,485.00	8,391,415.50	1,009,930.50	.....
June.....	8,765,511.00	9,082,327.50	316,816.50	.....
Total.....	\$78,348,777.43	\$87,873,944.68	\$10,318,535.25	\$793,368.00

Net Increase, \$9,525,167.25

DISTILLED SPIRITS

COMPARATIVE STATEMENT Showing the INTERNAL REVENUE RECEIPTS (TAX PAID PRODUCTIONS) from DISTILLED SPIRITS Twelve Months ended June 30, 1915 and 1916.

Months	Fiscal Year 1915	Fiscal Year 1916	Increase	Decrease
1914-1915				
July.....	\$9,790,027.78	\$9,189,847.19	.....	\$600,180.59
August.....	14,569,346.92	9,575,764.16	.....	4,993,582.76
September...	17,942,687.92	11,928,600.35	.....	6,014,087.57
October.....	10,938,356.84	14,228,154.84	\$3,289,798.00	.....
November....	10,866,663.22	15,581,752.50	4,715,089.28	.....
December....	12,207,320.76	16,244,035.43	4,036,714.67	.....
1915-1916				
January.....	10,764,996.00	12,284,398.50	1,519,402.50	.....
February....	9,379,099.40	12,724,934.20	3,345,834.80	.....
March.....	10,557,307.20	13,682,969.30	3,125,662.10	.....
April.....	10,127,389.80	11,653,812.50	1,526,422.70	.....
May.....	9,631,658.30	11,623,144.50	1,991,486.20	.....
June.....	9,795,841.00	11,132,083.60	1,336,242.60	.....
Total.....	\$136,570,695.14	\$149,849,497.07	\$24,886,652.85	\$11,607,850.92

Net Increase, \$13,278,801.93

THE UNITED STATES BREWERS' ASSOCIATION

RETURNS OF FERMENTED LIQUORS BY FISCAL YEARS

B.—STATEMENT showing the Internal Revenue Receipts from Fermented Liquors at Sixty Cents, One Dollar, One Dollar and Sixty Cents, Two Dollars, and \$1.50 since Oct. 22, 1914, per Barrel of Thirty-one Gallons, the Tax-Paid Quantities, the Aggregate Collections, Amounts Refunded, and the Aggregate Production, from September 1, 1862, to June 30, 1916.

Fiscal Years Ended June 30	Rates of Tax	Collections at Each Rate	Quantities in Barrels	Aggregate of Collections	Refunded	Aggregate Production in Barrels
1863.	\$1.00	\$ 885,271.88	885,272	\$ 1,628,933.82	\$.....	2,006,625
	.60	672,811.53	1,121,353			
1864.	1.00	1,376,491.12	2,294,152	2,290,009.14		3,141,381
	.60	847,228.61	847,229			
1865.	1.00	3,657,181.06	3,657,181	3,734,928.06		3,657,181
1866.	1.00	5,115,140.49	5,115,140	5,220,552.72		5,115,140
1867.	1.00	5,819,345.49	6,207,402	6,087,500.63		6,207,402
1868.	1.00	5,685,663.70	6,146,663	5,955,868.92		6,146,663
1869.	1.00	5,866,400.98	6,342,055	6,099,879.54	24,090.61	6,342,055
1870.	1.00	6,081,520.54	6,574,617	6,319,126.90	800.00	6,574,617
1871.	1.00	7,159,740.20	7,740,260	7,389,501.82	4,288.80	7,740,260
1872.	1.00	8,009,969.72	8,659,427	8,258,498.46	1,865.82	8,659,427
1873.	1.00	8,910,823.83	9,683,323	9,324,937.84	1,747.11	9,683,323
1874.	1.00	8,880,829.68	9,600,897	9,304,679.72	1,122.42	9,600,879
1875.	1.00	8,743,744.62	9,452,697	9,144,004.41	849.12	9,452,697
1876.	1.00	9,159,675.95	9,902,352	9,571,280.66	8,860.54	9,902,352
1877.	1.00	9,074,306.93	9,810,060	9,480,789.17	21,107.84	9,810,060
1878.	1.00	9,473,360.70	10,241,471	9,937,051.78	3,098.69	10,241,471
1879.	1.00	10,270,352.83	11,103,084	10,729,320.08	1,291.55	11,103,084
1880.	1.00	12,346,077.26	13,347,111	12,829,802.84	30.75	13,347,111
1881.	1.00	13,237,700.63	14,311,028	13,700,241.21		14,311,028
1882.	1.00	15,680,678.54	16,952,085	16,153,920.42		16,952,085
1883.	1.00	16,426,050.11	17,757,892	16,900,615.81	243,033.20	17,757,892
1884.	1.00	17,573,722.88	18,998,619	18,084,954.11		18,998,619
1885.	1.00	17,747,006.11	19,185,953	18,230,782.03	7,882.78	19,185,953
1886.	1.00	19,157,612.87	20,710,933	19,667,731.29	133.33	20,710,933
1887.	1.00	21,387,411.79	23,121,526	21,922,187.49	8,974.59	23,121,526
1888.	1.00	22,829,202.90	24,680,219	23,324,218.48		24,680,219
1889.	1.00	23,235,863.94	25,119,853	23,723,835.26		25,119,853
1890.	1.00	25,494,798.50	27,561,944	26,008,534.74		27,561,944
1891.	1.00	28,192,327.69	30,478,192	28,565,129.92	31.67	30,497,209
1892.	1.00	29,431,498.06	31,817,836	30,037,452.77	20.00	31,856,626
1893.	1.00	31,962,743.15	34,554,317	32,548,983.07	21,559.23	34,591,179
1894.	1.00	30,834,674.01	33,324,783	31,414,788.04	24,577.62	33,362,373
1895.	1.00	31,044,304.84	33,561,411	31,640,617.54	188.20	33,589,784
1896.	1.00	33,139,141.10	35,826,098	33,784,235.26	4,993.90	33,859,250
1897.	1.00	31,841,362.40	34,423,094	32,472,162.07		34,462,822
1898.	1.00	34,480,524.23	35,112,426			37,529,339
	2.00	4,404,627.40	2,380,880	39,515,421.14		
1899.	1.00	2,070.31	2,070	68,644,558.45	1,106.90	36,697,634
	2.00	67,671,231.00	36,579,044			
1900.	2.00	72,782,070.56	39,330,849	73,550,754.49	117,559.91	39,471,593
1901.	2.00	74,956,593.87	40,517,078	75,669,907.65	83,539.58	40,614,258
1902.	1.60	71,166,711.65	44,478,832	71,988,902.39	9,177.69	44,550,127
1903.	1.00	46,652,577.14	46,650,730	47,547,856.08	20,538.81	46,720,179
1904.	1.00	48,208,132.56	48,208,133	49,083,458.77	44,396.35	48,265,168
1905.	1.00	49,459,539.93	49,459,540	50,360,553.18	8,934.26	49,522,029
1906.	1.00	54,651,636.63	54,651,637	55,641,858.56	20,261.45	54,724,553
1907.	1.00	58,546,110.69	58,546,111	59,567,818.18	7,488.11	58,622,002
1908.	1.00	58,747,680.14	58,747,680	59,807,616.81	7,002.28	58,814,033
1909.	1.00	56,303,496.68	56,303,497	57,456,411.42	9,937.87	56,364,360
1910.	1.00	59,485,116.82	59,485,117	60,572,288.54	7,649.76	59,544,775
1911.	1.00	63,216,851.24	63,216,851	64,367,777.65	6,862.34	63,283,123
1912.	1.00	62,108,633.39	62,108,633	63,268,770.51	6,471.95	62,176,694
1913.	1.00	65,245,544.40	65,245,544	66,266,989.60	8,779.89	65,324,876
1914.	1.00	66,105,444.65	66,105,445	67,081,512.45	8,181.07	66,189,473
1915.	1.00 & 1.60	78,460,380.97	59,746,701	79,328,946.72	45,446.42	59,808,210
1916.	1.60	87,875,672.22	58,564,508	88,771,103.99	18,611.80	58,633,624
Total.		\$1,717,762,682.12	1,586,518,835	\$1,749,953,562.60	\$806,494.21	1,588,157,091

NOTE.—Prior to September 1, 1866, the tax on fermented liquors was paid in currency, and the full amount of tax was returned by collectors. From and after that date the tax was paid by stamps, on which a deduction of 7½ per cent. was allowed to brewers using them.

The Act of July 24, 1897, repealed the 7½ per cent. discount. The Act of June 13, 1898, restored the 7½ per cent. discount.

Under the Act of March 2, 1901 and April 12, 1902, no provision is made for any discount.

* The difference in quantities beginning with 1891 is to be accounted for as exported.

† Includes \$4,924.85, at \$1.60 per barrel.

Of the \$806,494.21 refunded, \$474,429.14 was refunded from fermented liquors to brewers and \$332,065.07 to others than brewers.

The Act of October 22, 1914, increased the Tax to \$1.50.

THE 1916 YEAR BOOK OF

RETURNS OF FERMENTED LIQUORS UNDER EACH ACT OF LEGISLATION

C.—STATEMENT, Showing the amount of Internal Revenue derived from Fermented Liquors at One Dollar and Two Dollars per Barrel, and at One Dollar and Sixty Cents, Sixty Cents, and \$1.50 since Oct. 22, 1914, per Barrel, under the enactments imposing those rates, the quantities on which the Tax was paid, the date when each rate was imposed and when it ended, and the length of time each rate was in force, from July 1, 1862, to June 30, 1916.

Articles	Rates of tax per barrel	Dates of Acts		Length of time rates were in force	Collections at Each Rate	Quantities in Barrels
		Imposing Tax	Limiting Tax			
Ale, beer, lager-beer, porter and other similar fermented liquors...	\$1.00	July 1, 1862	Mar. 3, 1863 (Limiting to Mar. 31, 1864)	6 Months	\$885,271.88	885,272
Ditto.....	.60	Mar. 3, 1863	Mar. 31, 1864	13	2,049,320.65	3,415,504
Ditto.....	1.00	July 1, 1862	.....	410½	568,800,055.65	611,891,249
Ditto.....	2.00	June 13, 1898	.....	36½	219,794,522.83	118,907,851
Ditto.....	1.60	Mar. 2, 1901	.....	12	71,166,711.65	44,478,832
Ditto.....	1.00	Apr. 12, 1902	.....	168	855,066,817.46	807,040,127
Ditto.....	1.50	Oct. 22, 1914	.....	.....	.....	.....
Total.....	.....	.....	.....	.....	\$1,717,762,682.12	1,586,618,835

NOTE.—The Act of July 1, 1862, went into operation September 1, 1862. The Act of March 3, 1863, provided that the tax on fermented liquors should be 60 cents per barrel from the date of the passage of that Act to April 1, 1864. Hence the tax of 60 cents per barrel having expired by limitation April 1, 1864, the tax of \$1 per barrel under Act of July 1, 1862, was again revived, and this rate under different acts continued in force from and including that date until the passage of the Act of June 13, 1898, when the tax was increased to \$2 per barrel. The Act of March 2, 1901, reduced the tax to \$1.60 per barrel to take effect July 1, 1901. The Act of April 12, 1902, restored the tax to the original tax of \$1.00 per barrel, to take effect July 1, 1902.

The Act of October 22, 1914, increased tax to \$1.50 per barrel.

D.—Stamps for fermented liquors and brewers' permits issued to collectors for purchasers during the ten fiscal years ended June 30, 1916.

1907.....	Number,	114,585,600	Value.	\$59,827,950.00
1908.....	"	110,205,300	"	58,587,900.00
1909.....	"	104,622,100	"	56,527,204.17
1910.....	"	106,504,320	"	58,128,570.00
1911.....	"	115,814,400	"	66,615,575.00
1912.....	"	110,664,100	"	65,308,425.00
1913.....	"	105,565,700	"	63,096,775.00
1914.....	"	109,811,500	"	66,765,225.00
1915.....	"	112,763,580	"	96,438,251.25
1916.....	"	93,808,300	"	87,551,962.50
Total.....	.....	1,184,344,900	.....	\$680,847,837.92

THE UNITED STATES BREWERS' ASSOCIATION

E.—STATEMENT of Fermented Liquors Removed from Breweries in Bond, Free of Tax, from July 1, 1915, to June 30, 1916.

	1915 Gallons	1916 Gallons
Removed for export and unaccounted for July 1, 1915 and 1916, respectively	188,298	186,798
Removed for direct exportation	103,532	216,521
Removed in original packages, to be bottled for export.	245,343	441,828
Removed by pipe line, to be bottled for export.....	557,919	1,484,009
Excess reported by bottlers.....	7,186	19,219
Total.....	2,102,278	2,348,375

	1915 Gallons	1916 Gallons
Exported in original packages, proofs received	91,403	232,284
Exported in bottles, proofs received	1,768,276	1,789,725
Removed for export, unaccounted for, tax paid	23,397	25,145
Excess reported by bottlers.....	32,404	28,896
Removed for export, unaccounted for, June 30, 1915 and 1916, respectively	186,798	272,325
Total.....	2,102,278	2,348,375

NOTE.—The last drawback, amounting to \$378.09, was paid in 1892 and none since.

THE 1916 YEAR BOOK OF

EX 1/2.—FERMENTED Liquors Removed from Breweries in Bond for Export During the Years Ending June 30, 1915 and 1916, by Districts.

DISTRICT	1915 Gallons	1916 Gallons
California, first	43,384	72,072
" sixth	51,057	137,747
Hawaii	5,921	11,454
Indiana, sixth	1,209	1,200
Kentucky, sixth .....	.....	5,022
Louisiana	32,798	68,697
Maryland	23,731	19,669
Massachusetts, third .....	.....	32,859
Michigan, first	25,730	7,409
Minnesota	11,346	.....
Missouri, first	364,519	280,656
" sixth .....	.....	20,181
New Jersey, fifth	25,303	143,162
New York, first	427,006	527,115
" second	4,650	2,790
" third	85,087	144,373
" fourteenth	5,038	3,765
" twenty-eighth .....	.....	6,266
Ohio, first	3,813	3,286
" eleventh	48,453	29,264
Pennsylvania, twenty-third .....	.....	2,123
Tennessee	1,860	1,240
Texas, third	71,377	241,181
Washington	131,966	47,933
Wisconsin, first	514,615	317,238
" second	27,931	15,655
Total	1,906,794	2,142,358

Note.—The items only add 2,142,357 and may possibly be corrected.—As they are, they have been taken from the report.

THE UNITED STATES BREWERS' ASSOCIATION

TABLE showing by States and Territories the Collections, also the Percentum of each of Total Collections from Fermented Liquors for the Years Ended June 30, 1915 and 1916.

STATES AND TERRITORIES	1915				1916			
	Fermented Liquors, per Barrel of not more than 31 gals., \$1.00 and \$1.50 from Oct. 22, 1914	Total Collections on Fermented Liquors	Per Cent. of Total Collections from all Sources of Int. Rev.	Fermented Liquors, per Barrel of not more than 31 gals., \$1.00 and \$1.50 from Oct. 22, 1914	Total Collections on Fermented Liquors	Per Cent. of Total Collections from all Sources of Int. Rev.		
1 Alabama.....	\$44,945.96	\$48,416.28	.012	.....	\$1,722.22	.000	
2 Alaska.....	7,841.45	8,622.72	.002	9,885.00	10,461.27	.002		
3 Arizona.....	9,394.38	10,365.67	.002	3,765.50	3,964.68	.000		
4 Arkansas.....	14,428.88	18,991.42	.005	9,006.75	10,590.33	.002		
5 California.....	1,686,893.98	1,719,336.57	.414	2,063,729.14	2,096,310.92	.408		
6 Colorado.....	432,601.59	441,691.81	.106	245,316.50	250,756.92	.048		
7 Connecticut.....	1,003,368.31	1,022,372.09	.246	1,363,683.66	1,383,537.80	.269		
8 Delaware.....	163,045.50	164,744.69	.040	198,795.00	199,068.78	.038		
9 District of Columbia.....	218,081.89	226,960.43	.055	183,427.50	190,017.97	.037		
10 Florida.....	39,132.59	44,763.44	.011	42,327.75	46,955.28	.009		
11 Georgia.....	143,428.56	151,864.37	.037	120,580.51	130,235.76	.025		
12 Hawaii.....	47,301.36	48,633.87	.012	60,732.95	61,831.32	.012		
13 Idaho.....	32,258.35	35,125.43	.008	17,744.37	19,366.03	.003		
14 Illinois.....	8,211,420.94	8,296,332.45	1.996	8,932,845.71	9,016,158.72	1.758		
15 Indiana.....	2,043,054.04	2,074,761.75	.499	2,154,090.50	2,187,866.52	.426		
16 Iowa.....	619,685.92	639,543.83	.154	315,797.19	320,186.81	.062		
17 Kansas.....	.....	1,571.14	.000	.....	2,313.32	.000
18 Kentucky.....	964,542.49	976,051.19	.235	1,008,382.00	1,017,539.67	.198		
19 Louisiana.....	658,507.59	673,404.72	.162	817,196.44	829,548.14	.161		
20 Maine.....	670.50	15,542.53	.004	156.25	14,102.12	.002		
21 Maryland.....	1,472,002.79	1,485,115.85	.357	1,678,890.89	1,693,643.95	.330		
22 Massachusetts.....	3,142,466.47	3,172,793.60	.763	3,674,025.75	3,701,186.89	.721		
23 Michigan.....	2,555,366.97	2,589,607.63	.623	3,231,844.40	3,266,919.12	.637		
24 Minnesota.....	2,155,791.96	2,188,372.59	.526	2,268,439.87	2,322,237.79	.452		
25 Mississippi.....	.....	2,078.41	.001	.....	1,069.22	.000
26 Missouri.....	4,645,739.21	4,673,933.98	1.124	5,001,581.57	5,031,364.28	.981		
27 Montana.....	318,217.91	330,601.27	.080	414,849.75	426,054.35	.083		
28 Nebraska.....	558,023.40	591,073.86	.142	619,385.63	650,026.92	.126		

F (continued).—TABLE showing by States and Territories the Collections, also the Percentum of each of Total Collections from Fermented Liquors for the Years Ended June 30, 1915 and 1916.

STATES AND TERRITORIES	1915				1916			
	Fermented Liquors, per Barrel of not more than 31 gals., \$1.00 and \$1.50 from Oct. 22, 1914	Total Collections on Fermented Liquors	Per Cent. of Total Collections from all Sources of Int. Rev.	Fermented Liquors, per Barrel of not more than 31 gals., \$1.00 and \$1.50 from Oct. 22, 1914	Total Collections on Fermented Liquors	Per Cent. of Total Collections from all Sources of Int. Rev.		
29 Nevada.....	\$23,205.09	\$26,082.60	.006	\$21,772.15	\$24,740.08	.004		
30 New Hampshire.....	372,373.76	375,935.47	.090	418,686.50	423,600.66	.082		
31 New Jersey.....	4,227,008.57	4,256,131.94	1.023	4,910,992.37	4,945,217.78	.964		
32 New Mexico.....	12,040.32	14,124.97	.003	14,775.00	17,542.61	.003		
33 New York.....	17,292,660.72	17,356,921.24	4.176	19,077,488.17	19,154,976.98	3.735		
34 North Carolina.....	.....	640.79	.000	.....	364.25	.000		
35 North Dakota.....	.....	2,648.05	.001	.....	1,601.81	.000		
36 Ohio.....	6,076,832.07	6,133,712.79	1.476	7,264,783.14	7,328,041.84	1.429		
37 Oklahoma.....	20.00	3,564.17	.001	74.51	2,124.51	.000		
38 Oregon.....	237,260.79	242,829.12	.058	159,389.25	161,053.84	.031		
39 Pennsylvania.....	9,468,805.12	9,546,006.81	2.297	11,451,214.13	11,527,182.50	2.248		
40 Rhode Island.....	825,708.64	828,697.82	.199	976,162.50	979,187.13	.190		
41 South Carolina.....	4,713.50	8,087.87	.002	1,218.75	4,532.96	.000		
42 South Dakota.....	58,209.83	66,192.45	.016	65,134.00	74,475.91	.001		
43 Tennessee.....	114,208.53	121,234.22	.029	72,761.25	77,942.34	.015		
44 Texas.....	851,843.07	898,505.17	.216	1,048,680.17	1,110,913.56	.216		
45 Utah.....	169,437.95	175,061.27	.042	208,668.75	211,142.91	.041		
46 Vermont.....	.....	1,560.05	.000	.....	2,781.67	.000		
47 Virginia.....	216,780.67	227,470.39	.055	230,806.65	244,845.94	.047		
48 Washington.....	1,149,142.19	1,160,165.66	.279	699,791.15	702,753.69	.137		
49 West Virginia.....	.....	60.00	.000	.....	358.33	.000		
50 Wisconsin.....	6,151,763.61	6,209,439.04	1.494	6,787,794.95	6,855,263.77	1.337		
51 Wyoming.....	20,153.55	23,201.24	.006	28,998.25	35,432.82	.006		
Total.....	\$78,460,380.97	\$79,328,946.72	19.085	\$87,875,672.22	\$88,771,103.99	*17.276		
				Added for fractions		.038		
							17.314	

NOTE.—The total receipts from all sources of Internal Revenue for the year ended June 30, 1916, amounted to \$512,723,287.77. The total collections from fermented liquors for the same period amounted to \$88,771,103.99, or 17.314 per centum of the above \$512,723,287.77.

The total receipts from all sources of Internal Revenue for the Year ended June 30, 1915, amounted to \$415,669,876.30. The total collections from fermented liquors for the same period amounted to \$79,328,946.72 or 19.085 per centum of the above \$415,669,876.30.

* Includes \$87,846,384.14 stamp sales at \$1.50 per barrel, \$251.63 at the rate of \$1.00 per barrel, and \$29,036.45 assessed on fermented liquors stored in warehouse. * All fractions disregarded.

THE UNITED STATES BREWERS' ASSOCIATION

G.—TABLE showing the Number of Persons who Paid Special Taxes as Brewers, Retail and Wholesale Dealers in Malt Liquors, and Retail and Wholesale Liquor Dealers, for the Fiscal Years, Ended June 30, 1915 and 1916.

STATES AND TERRITORIES	Brewers		Retail Dealers in Malt Liquors		Wholesale Dealers in Malt Liquors		Retail Liquor Dealers		Wholesale Liquor Dealers	
	1915	1916	1915	1916	1915	1916	1915	1916	1915	1916
1 Alabama.....	6	4	52	63	43	2	500	400	60	4
2 Alaska.....	1	1	9	6	10	5	325	305	3	5
3 Arizona.....	1	1	22	.....	28	1	696	164	32	.....
4 Arkansas.....	66	72	70	67	18	23	624	412	22	24
5 California.....	13	10	605	644	328	335	13,746	14,007	657	659
6 Colorado.....	19	18	188	111	118	100	2,270	1,571	87	74
7 Connecticut.....	4	4	61	57	323	358	3,200	3,242	81	80
8 Delaware.....	4	4	4	5	14	17	320	278	6	10
9 District of Columbia.....	2	2	418	308	37	19	741	549	33	20
10 Florida.....	4	4	234	154	50	39	808	786	62	53
11 Georgia.....	4	4	495	402	53	38	1,014	770	22	21
12 Hawaii.....	4	5	14	10	8	13	279	310	56	61
13 Idaho.....	5	5	36	24	36	23	534	318	11	9
14 Illinois.....	96	95	1,361	1,303	1,130	1,070	20,688	20,492	515	519
15 Indiana.....	34	35	511	530	408	398	6,761	6,404	117	118
16 Iowa.....	8	16	383	87	297	232	1,910	1,284	50	43
17 Kansas.....	.....	.....	46	77	14	10	366	217	.....	1
18 Kentucky.....	19	17	290	279	41	71	2,653	2,315	157	147
19 Louisiana.....	11	10	473	462	101	90	3,301	3,150	145	129
20 Maine.....	3	3	679	538	43	39	549	602	7	6
21 Maryland.....	19	18	181	265	153	194	3,136	3,020	117	103
22 Massachusetts.....	34	34	91	88	388	411	4,662	4,763	287	247
23 Michigan.....	70	63	409	495	434	357	6,184	5,761	87	109
24 Minnesota.....	66	66	591	482	676	566	4,796	4,441	128	155
25 Mississippi.....	.....	.....	90	60	.....	.....	252	249	.....	.....
26 Missouri.....	43	46	364	356	315	352	6,935	7,739	174	216
27 Montana.....	19	19	163	255	168	160	2,414	2,237	59	61
28 Nebraska.....	25	15	268	186	665	567	2,237	2,078	58	48
29 Nevada.....	3	3	9	9	47	48	1,203	1,162	20	25
30 New Hampshire.....	4	4	54	36	54	48	775	720	27	18
31 New Jersey.....	36	38	210	226	524	575	10,340	10,341	245	212
32 New Mexico.....	2	2	26	31	36	40	918	941	36	60
33 New York.....	171	161	483	453	891	822	32,200	30,185	1,452	1,456
34 North Carolina.....	.....	.....	31	37	.....	.....	171	165	2	2
35 North Dakota.....	.....	.....	74	57	4	.....	299	249	.....	.....
36 Ohio.....	110	116	195	345	892	924	8,656	8,126	362	344
37 Oklahoma.....	1	.....	87	41	26	15	523	433	10	4
38 Oregon.....	11	7	26	20	95	52	1,607	1,241	54	47
39 Pennsylvania.....	222	215	482	458	1,010	935	18,461	20,321	625	595
40 Rhode Island.....	8	8	18	20	43	43	1,407	1,340	47	52
41 South Carolina.....	1	1	152	97	11	22	956	797	18	10
42 South Dakota.....	4	4	95	99	148	119	893	756	27	18
43 Tennessee.....	4	3	220	119	24	36	1,098	960	90	129
44 Texas.....	15	13	2,088	2,112	394	323	3,038	2,989	62	65
45 Utah.....	6	4	107	52	51	34	649	653	33	30
46 Vermont.....	.....	.....	44	25	37	19	172	177	3	2
47 Virginia.....	6	6	437	486	112	64	1,378	1,170	67	69
48 Washington.....	24	23	116	72	169	121	2,442	1,965	100	70
49 West Virginia.....	.....	.....	3	.....	.....	7	227	390	.....	.....
50 Wisconsin.....	137	135	614	541	705	758	10,567	10,584	118	113
51 Wyoming.....	3	3	61	66	75	89	588	580	20	30
Total.....	1,345	1,313	13,740	12,716	11,247	10,704	190,469	184,718	6,451	6,273
Total for Fiscal Year ended June 30, 1915.....	.....	1,345	.....	13,740	.....	11,247	.....	190,469	.....	6,451
.....	.....	Decr. 32	.....	Decr. 1,024	.....	Decr. 543	.....	Decr. 5,751	.....	Decr. 178

THE 1916 YEAR BOOK OF

H.—TABLE showing Tax Paid Fermented and Distilled Liquors, Corresponding Quantities, Estimated Increase of Population, for the Fiscal Year Ended June 30, 1916, by States and Territories; also Number of Retail Dealers, and Population to Each Dealer.

STATES AND TERRITORIES	FERMENTED LIQUORS		DISTILLED SPIRITS		Population 1916 (See Note Below)	Number of Retail Dealers	Population per Dealer
	Tax paid at \$1.50 per Barrel of 31 Gallons	Quantities in Gallons	Tax paid at \$1.10 per Gallon	Quantities in Gallons			
1 Alabama.....			\$55,032.82	50,030	2,371,611	463	5,122
2 Alaska.....	\$9,885.00	204,290			64,834	311	208
3 Arizona.....	3,765.50	77,820			226,673	164	1,382
4 Arkansas.....	9,006.75	186,140	39,381.73	35,802	1,746,407	479	3,645
5 California.....	2,063,729.14	42,650,402	5,990,897.24	5,446,270	2,637,220	15,251	173
6 Colorado.....	245,316.50	5,069,874	57,341.35	52,129	886,291	1,682	526
7 Connecticut.....	1,363,683.66	28,182,796	157,215.25	142,923	1,236,507	3,299	374
8 Delaware.....	198,795.00	4,108,430	41.38	38	224,419	283	793
9 Dist. of Columbia	183,427.50	3,790,835	332,526.95	302,297	367,227	857	428
10 Florida.....	42,327.75	874,774	111,286.78	101,170	834,818	940	888
11 Georgia.....	120,580.51	2,491,997			2,894,084	1,172	2,469
12 Hawaii.....	60,732.95	1,255,148	38,974.98	35,432	215,741	329	655
13 Idaho.....	17,744.37	366,717			361,154	342	1,056
14 Illinois.....	8,932,845.71	184,612,145	35,025,540.31	31,841,400	6,254,327	21,795	286
15 Indiana.....	2,154,090.50	44,517,870	25,722,642.19	23,384,220	2,995,860	6,334	432
16 Iowa.....	315,797.19	6,526,475			2,467,756	1,371	1,799
17 Kansas.....					1,875,631	294	6,379
18 Kentucky.....	1,008,382.00	20,839,894	31,720,619.02	28,836,926	2,540,004	2,594	979
19 Louisiana.....	817,196.44	16,888,726	6,442,876.70	5,857,161	1,837,295	3,612	508
20 Maine.....	156.25	3,229			823,451	1,140	722
21 Maryland.....	1,678,890.89	34,697,078	3,561,866.38	3,238,060	1,436,821	3,285	437
22 Massachusetts.....	3,674,025.75	75,929,866	2,244,873.40	2,040,794	3,734,089	4,851	769
23 Michigan.....	3,231,844.40	66,791,451	681,425.02	619,477	3,117,095	6,256	498
24 Minnesota.....	2,268,439.87	46,881,090			2,302,413	4,923	467
25 Mississippi.....					1,993,391	309	6,450
26 Missouri.....	5,001,581.57	103,366,019	998,722.09	907,929	3,653,027	8,095	451
27 Montana.....	414,849.75	8,573,562	21,850.76	19,864	417,124	2,492	167
28 Nebraska.....	619,385.63	12,800,636	2,758,248.27	2,507,498	1,322,425	2,364	584
29 Nevada.....	21,772.15	449,958			90,817	1,171	77
30 New Hampshire.....	418,686.50	8,652,854	1,094.39	995	477,598	756	631
31 New Jersey.....	4,910,992.37	101,493,842	112,308.53	102,099	2,814,371	10,567	266
32 New Mexico.....	14,775.00	305,350	328.43	299	363,048	972	373
33 New York.....	19,077,488.17	394,268,080	9,334,827.61	8,486,207	10,109,111	30,638	329
34 North Carolina.....			67.61	61	2,447,253	202	12,115
35 North Dakota.....					640,061	306	2,091
36 Ohio.....	7,264,783.14	150,138,852	11,131,299.18	10,119,363	5,287,777	8,471	628
37 Oklahoma.....	74.51	1,540			1,838,146	474	3,877
38 Oregon.....	159,389.25	3,294,045	231,954.25	210,868	746,243	1,261	591
39 Pennsylvania.....	11,451,214.13	236,658,425	9,153,466.45	8,321,333	8,602,280	20,779	409
40 Rhode Island.....	976,162.50	20,174,025			601,872	1,860	442
41 South Carolina.....	1,218.75	25,188	3,429.36	3,118	1,680,909	894	1,880
42 South Dakota.....	65,134.00	1,346,102			647,659	855	757
43 Tennessee.....	72,781.25	1,503,733	34,109.66	31,009	2,423,407	1,079	2,245
44 Texas.....	1,048,680.17	21,672,723	7.03	6	4,322,115	5,101	847
45 Utah.....	208,668.75	4,312,488	4,597.67	4,180	414,127	705	587
46 Vermont.....					394,532	202	1,954
47 Virginia.....	230,806.65	4,770,004	1,080,415.21	936,741	2,286,777	1,656	1,380
48 Washington.....	699,791.15	14,462,350	18,656.55	16,960	1,266,716	2,037	631
49 West Virginia.....			148,531.79	135,029	1,354,487	390	3,473
50 Wisconsin.....	6,787,794.95	140,281,096	2,682,724.25	2,438,840	2,588,759	11,125	232
51 Wyoming.....	28,998.25	599,297			161,907	646	250
Total.....	\$87,875,672.22	1,816,097,225	\$149,949,180.47	134,236,528	102,297,887	197,434	518

	17.75 gal. per cap.	1.33 gal. per cap.		
NOTE:			1910	1916
Estimated population, July 1, 1916:				Increase
Continental United States*			91,972,266	102,017,312
Alaska.....			64,356	64,834
Outlying Territory: Guam.....			12,240	①2,866
Hawaii.....			191,909	215,741
Panama Canal Zone..			61,279	③31,048
Philippine Islands.....			8,265,348	8,834,187
Porto Rico.....			1,118,012	1,216,083
Samoa.....			7,251	⑦7,426
Persons in the Military and Naval Service stationed abroad.....			55,608	⑤55,608
Total.....			101,748,269	112,455,105

(*Included in Internal Revenue Report for Fiscal Year, 1916.)

- 1 Census, December 31, 1913.
2 Police Census, June 10, 1916.
3 Census, April 15, 1910.

THE UNITED STATES BREWERS' ASSOCIATION

PRODUCTION OF BEER IN THE UNITED STATES.

FOR THE FISCAL YEAR ENDING JUNE 30, 1916, AND THE TEN PRECEDING YEARS.

Compiled by the Brewers Journal up to and including 1914.

STATES AND TERRITORIES	1906	1907	1908	1909	1910	1911
	Barrels	Barrels	Barrels	Barrels	Barrels	Barrels
Alabama.....	105,430	113,247	89,566	57,204	11,520	13,290
Alaska.....	50,901	68,103	68,181	52,971	58,292	6,283
Arizona.....	13,207	13,412	12,411	11,442	11,886	15,147
Arkansas.....	7,925	10,100	11,775	10,024	12,700	10,025
California.....	1,032,728	1,132,728	1,164,397	1,128,565	1,163,891	1,215,405
Colorado.....	341,310	374,385	403,114	381,710	412,962	435,072
Connecticut.....	612,781	700,237	717,528	708,621	770,148	736,146
Delaware.....	152,619	160,620	160,595	154,654	162,501	142,017
District of Columbia.....	316,205	330,093	339,949	310,883	325,112	286,721
Florida.....	17,044	17,200	14,968	15,750	19,425	18,350
Georgia.....	172,745	175,600	118,370	115,155	128,750	129,455
Hawaii.....	14,775	16,360	12,642	14,018	13,618	16,683
Idaho.....	30,201	38,945	45,086	42,669	43,900	32,780
Illinois.....	5,196,920	5,423,280	5,535,167	5,525,473	6,024,884	6,630,254
Indiana.....	1,332,638	1,412,326	1,365,420	1,272,017	1,303,166	1,469,030
Iowa.....	391,182	420,956	411,455	437,177	482,668	511,536
Kansas.....	15,356	15,690	12,676	5,872	610	.....
Kentucky.....	708,778	743,533	738,381	704,710	756,325	822,555
Louisiana.....	425,742	490,265	510,258	473,027	462,795	471,560
Maine.....	.....	.....	.....	.....	.....	.....
Maryland.....	940,774	961,353	960,236	911,108	936,716	1,077,884
Massachusetts.....	2,042,713	2,158,850	2,201,861	2,042,993	2,112,006	2,381,435
Michigan.....	1,382,585	1,521,305	1,539,833	1,483,207	1,538,663	1,724,156
Minnesota.....	1,112,808	1,238,932	1,337,976	1,411,570	1,578,706	1,652,184
Mississippi.....	.....	.....	.....	.....	.....	.....
Missouri.....	3,580,292	3,848,693	3,841,337	3,704,978	3,890,147	4,223,769
Montana.....	276,882	310,848	335,888	335,998	346,888	241,385
Nebraska.....	330,679	355,570	383,088	389,820	414,519	436,268
Nevada.....	48,712	70,714	82,136	60,132	81,204	18,740
New Hampshire.....	316,774	323,363	301,132	274,733	268,168	260,395
New Jersey.....	3,003,678	3,138,398	3,178,958	3,114,713	3,260,914	3,418,162
New Mexico.....	14,516	15,935	14,786	13,083	15,089	8,777
New York.....	12,345,189	13,016,904	12,962,152	12,572,042	13,095,353	13,732,743
North Carolina.....	.....	.....	10	.....	.....	.....
North Dakota.....	.....	.....	.....	.....	.....	.....
Ohio.....	4,254,248	4,323,141	4,401,313	4,058,438	4,252,077	4,573,275
Oklahoma.....	14,209	26,295	14,424	.....	.....	.....
Oregon.....	154,299	205,757	196,905	194,231	224,722	245,002
Pennsylvania.....	6,961,277	7,541,796	7,569,557	7,050,262	7,664,141	7,811,731
Rhode Island.....	471,318	522,518	522,377	502,967	541,217	649,171
South Carolina.....	1,735	3,001	4,090	5,157	2,942	5,258
South Dakota.....	41,617	41,277	45,845	44,940	50,605	52,345
Tennessee.....	263,091	290,895	260,638	255,200	221,850	256,395
Texas.....	480,764	556,766	546,917	552,976	611,399	678,796
Utah.....	65,900	73,132	83,068	81,861	85,266	140,123
Vermont.....	.....	.....	.....	.....	.....	.....
Virginia.....	210,955	211,557	192,774	164,267	174,451	190,473
Washington.....	554,373	787,862	802,937	740,966	801,589	875,028
West Virginia.....	292,342	334,241	341,700	293,189	302,780	363,330
Wisconsin.....	4,532,678	4,985,139	4,875,965	4,569,941	4,790,797	5,287,347
Wyoming.....	19,450	24,661	34,666	29,689	37,855	16,110
	54,651,637	58,546,111	58,747,680	56,303,497	59,485,117	63,283,123

THE 1916 YEAR BOOK OF

PRODUCTION OF BEER IN THE UNITED STATES.—Continued.

FOR THE FISCAL YEAR ENDING JUNE 30, 1916, AND THE TEN PRECEDING YEARS

Compiled by the Brewers Journal up to and including 1914.

STATES AND TERRITORIES	1912	1913	1914	1915	1916	Increase, 1915-1916	Decrease, 1915-1916
	Barrels	Barrels	Barrels	Barrels	Barrels	Barrels	Barrels
Alabama.....	39,835	44,945	45,426	35,659	.....	.....	35,659
Alaska.....	7,417	5,891	8,983	5,912	6,590	678	.....
Arizona.....	18,850	20,410	21,235	8,535	2,510	.....	6,025
Arkansas.....	8,850	10,550	10,950	10,827	6,004	.....	4,823
California.....	1,296,355	1,335,449	1,390,890	1,281,951	1,382,589	100,638	.....
Colorado.....	387,761	389,472	374,853	326,138	163,544	.....	162,594
Connecticut.....	736,261	786,267	786,272	760,502	909,114	148,612	.....
Delaware.....	129,695	145,895	137,820	125,599	132,530	6,931	.....
Dist. Col.....	284,576	266,580	230,944	169,973	122,285	.....	47,688
Florida.....	21,200	25,500	25,455	29,983	28,218	.....	1,765
Georgia.....	138,955	141,620	142,430	110,073	80,387	.....	29,686
Hawaii.....	20,567	25,348	31,335	35,194	40,858	5,664	.....
Idaho.....	29,591	27,213	20,545	23,796	11,830	.....	11,966
Illinois.....	6,263,862	6,656,823	6,987,568	6,269,757	5,955,231	.....	314,526
Indiana.....	1,546,292	1,669,281	1,769,038	1,568,028	1,436,099	.....	131,929
Iowa.....	447,114	484,088	503,370	472,764	210,498	.....	262,266
Kansas.....	.....	.....	20	.....	.....	.....	.....
Kentucky.....	801,935	821,640	858,515	763,112	672,417	.....	90,695
Louisiana.....	483,988	542,156	524,965	502,811	547,014	44,203	.....
Maine.....	.....	.....	1,631	590	104	.....	486
Maryland.....	1,093,838	1,139,620	1,177,744	1,116,811	1,119,896	3,085	.....
Mass.....	2,386,905	2,541,615	2,521,618	2,378,437	2,450,411	71,974	.....
Michigan.....	1,792,105	2,008,371	2,113,494	1,929,472	2,154,802	225,330	.....
Minnesota.....	1,512,139	1,633,452	1,749,555	1,643,108	1,511,916	.....	131,192
Mississippi.....	.....	.....	.....	.....	.....	.....	.....
Missouri.....	4,030,390	4,170,085	4,142,160	3,567,763	3,344,092	.....	223,671
Montana.....	232,618	268,851	288,247	241,642	276,567	34,925	.....
Nebraska.....	413,014	442,388	453,640	425,919	412,924	.....	12,995
Nevada.....	18,662	15,420	17,580	17,558	14,515	.....	3,043
New Hamp.....	266,720	289,010	283,100	282,027	279,124	.....	2,903
New Jersey.....	3,397,375	3,531,616	3,495,594	3,219,685	3,278,613	58,928	.....
New Mexico.....	9,240	8,756	8,637	9,168	9,850	682	.....
New York.....	13,677,850	13,956,878	14,040,387	13,180,111	12,732,529	.....	447,582
No. Carolina.....	.....	.....	.....	.....	.....	.....	.....
No. Dakota.....	.....	.....	.....	.....	.....	.....	.....
Ohio.....	4,742,665	5,150,187	5,147,419	4,622,581	4,844,239	221,658	.....
Oklahoma.....	.....	178	.....	13	55	42	.....
Oregon.....	243,819	222,888	212,276	181,272	106,280	.....	75,012
Pennsylvania.....	7,449,543	7,959,509	8,008,788	7,166,300	7,634,211	467,911	.....
Rhode Island.....	667,385	701,630	691,734	621,977	650,775	28,798	.....
So. Carolina.....	2,688	3,362	4,607	3,767	812	.....	2,955
So. Dakota.....	44,808	44,352	44,557	43,052	43,403	351	.....
Tennessee.....	273,850	278,882	225,923	89,573	48,548	.....	41,025
Texas.....	673,262	744,911	740,502	661,867	706,910	45,043	.....
Utah.....	129,105	140,648	149,715	130,121	139,112	8,991	.....
Vermont.....	.....	.....	.....	.....	.....	.....	.....
Virginia.....	196,756	208,511	197,035	164,517	153,806	.....	10,711
Washington.....	854,147	876,773	965,562	876,962	468,073	.....	408,889
W. Virginia.....	370,142	371,017	342,942	.....	.....	.....	.....
Wisconsin.....	5,016,701	5,171,179	5,278,989	4,718,431	4,525,027	.....	193,404
Wyoming.....	16,935	15,300	15,425	14,872	19,332	4,460	.....
	62,176,694	65,324,876	66,189,473	59,808,210	58,633,624	1,478,904	2,653,490

Net decrease for the fiscal year ended June 30, 1916, compared with the preceding fiscal year, 1,174,586 barrels.

¹ Includes 61,509 barrels removed from breweries for export free of tax.

² Includes 69,116 barrels removed from breweries for export free of tax.

IMPORTS AND EXPORTS

OF

MALT LIQUORS, HOPS, BARLEY-MALT, AND RICE MEAL, RICE FLOUR
AND BROKEN RICE

DURING THE FISCAL YEARS BELOW ENUMERATED

**A.—IMPORT of Foreign Beer, Ale, Porter and other Malt Liquor for the
Last Ten Fiscal Years:—**

YEARS	IN BOTTLES OR JUGS		IN OTHER COVERINGS	
	Gallons	Value	Gallons	Value
1906.....	1,582,619	\$1,466,228	4,395,032	\$1,272,627
1907.....	2,041,688	1,902,655	5,165,929	1,506,108
1908.....	1,960,333	1,829,917	5,564,773	1,634,754
1909.....	1,801,043	1,695,747	5,105,062	1,519,660
1910.....	1,727,541	1,605,919	5,560,491	1,658,034
1911.....	1,954,092	1,790,492	5,339,800	1,605,874
1912.....	1,651,564	1,571,336	5,523,941	1,708,590
1913.....	1,452,728	1,372,823	6,245,922	1,917,442
1914.....	1,213,320	1,152,598	5,963,913	1,814,431
1915.....	799,946	768,893	2,551,158	818,505
Total.....	42,184,874	\$15,156,608	51,416,021	\$15,456,025

Of the Foreign Beer, etc., Imported in 1915, there were received from:—

COUNTRIES	Gallons	Value	Gallons	Value
Austria-Hungary.....	.....	.....	1,116,409	\$355,910
Denmark.....	6,970	\$3,857	2,081	584
Germany.....	12,932	9,409	628,882	166,511
Netherlands.....	.....	.....	7,167	2,655
Italy.....	.....	.....	1,640	487
Norway.....	4,490	2,976	3,048	1,926
Sweden.....	11,875	8,962	1,069	724
England.....	520,374	513,369	235,204	116,253
Scotland.....	11,491	10,436	3,804	2,215
Ireland.....	218,290	209,015	546,051	168,969
Canada.....	11,517	9,439	5,107	2,133
All other countries, less than 1,000 gallons, each.....	2,007	1,430	696	138
Total as above.....	799,946	\$768,893	2,551,158	\$818,505

THE 1916 YEAR BOOK

A¹/₂.—EXPORT of Foreign Beer, Ale, Porter and other Malt Liquors for the Last Ten Fiscal Years:—

YEARS	IN BOTTLES OR JUGS		IN OTHER COVERINGS	
	Gallons	Value	Gallons	Value
1906.....	6,922	\$5,108	48	\$31
1907.....	12,433	9,150	1,042	407
1908.....	14,109	13,034	1,160	650
1909.....	1,147	955	.....	.....
1910.....	2,622	2,197	6,340	2,458
1911.....	4,720	3,723	3,292	1,239
1912.....	16,839	14,042	3,360	1,076
1913.....	23,362	21,274	2,750	1,636
1914.....	10,667	8,636	1,672	499
1915.....	1,786	1,456	10	6
Total.....	94,607	\$79,575	19,674	\$8,002

B.—EXPORT of Beer and Ale of Domestic Produce for the Last Ten Fiscal Years:—

YEARS	IN BOTTLES OR JUGS		IN OTHER COVERINGS	
	Doz. Qts.	Value	Gallons	Value
1906.....	727,731	\$1,059,584	256,575	\$57,192
1907.....	743,163	1,128,226	356,788	87,114
1908.....	643,230	964,207	272,949	55,865
1909.....	635,361	964,992	246,525	45,795
1910.....	596,883	877,324	390,477	73,859
1911.....	689,093	990,395	451,694	85,164
1912.....	754,422	1,101,169	305,394	60,150
1913.....	866,684	1,301,244	312,965	70,219
1914.....	962,627	1,405,581	326,946	79,595
1915.....	696,690	1,010,222	245,494	71,890
Total.....	7,315,884	\$10,802,944	3,165,807	\$686,943

C.—EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June 30, 1910, 1911, 1912, 1913, 1914, 1915, 1916, and 1916.

IN BOTTLES OR JUGS

COUNTRIES	1910		1911		1912		1913		1914		1915		TOTAL	
	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value
Europe: Austr.-Hung'y.	611	\$ 746	460	\$ 561	70	\$ 100	40	\$ 50	68	\$ 85	15	\$ 22	68	\$ 85
Belgium	10	14	33	32	146	192	82	145	55	69	15	10	1,548	1,548
Denmark	24	30	212	338	187	260	230	352	322	425	145	234	24	30
France	392	679	671	1,089	620	952	608	972	903	1,499	192	283	1,488	2,288
Germany	1,090	1,584	671	1,089	620	952	608	972	903	1,499	192	283	4,174	6,359
Gibraltar	1,090	1,584	671	1,089	620	952	608	972	903	1,499	192	283	580	775
Italy	2,596	3,132	1,887	2,228	3,638	4,226	2,647	3,118	1,265	1,497	620	730	12,853	14,981
Netherlands	15	21	10	14	10	12	4	8	225	346	500	664	725	1,210
Portugal	15	21	10	14	10	12	4	8	225	346	500	664	725	1,210
Spain	15	21	10	14	10	12	4	8	225	346	500	664	725	1,210
Turkey	1,342	2,142	1,141	1,741	1,427	2,171	1,363	2,104	1,855	2,864	1,847	2,819	190	241
England	1,342	2,142	1,141	1,741	1,427	2,171	1,363	2,104	1,855	2,864	1,847	2,819	8,975	13,841
Scotland	1,342	2,142	1,141	1,741	1,427	2,171	1,363	2,104	1,855	2,864	1,847	2,819	40	65
Ireland	1,342	2,142	1,141	1,741	1,427	2,171	1,363	2,104	1,855	2,864	1,847	2,819	20	40
North America.														
Bermuda	2,571	3,722	3,198	4,694	5,302	7,828	5,206	7,545	4,872	6,745	4,935	7,314	26,084	37,848
British Honduras	5,708	8,711	6,981	9,713	5,505	7,404	8,034	10,355	9,834	12,501	10,705	14,001	46,767	62,685
Canada	221,295	324,659	296,083	440,265	427,861	652,372	595,778	931,146	577,550	881,721	217,789	330,966	2,336,356	3,561,129
New Found'd & Labdr.	2,545	3,577	2,942	5,118	2,907	4,774	2,086	3,031	1,633	2,385	2,047	2,554	14,160	21,439
Central America.														
Costa Rica	8,777	13,549	11,794	16,391	9,110	12,456	5,127	6,776	12,429	16,318	6,948	9,448	54,185	74,935
Guatemala	7,049	11,177	6,297	8,887	7,899	10,685	13,949	17,266	21,142	27,644	10,505	13,719	66,841	89,378
Honduras	3,518	5,735	10,962	14,646	9,418	13,026	8,065	10,792	30,008	39,028	32,709	43,238	94,700	126,465
Nicaragua	3,423	5,402	10,696	14,363	14,180	18,587	11,565	15,448	15,687	21,699	12,886	19,112	68,437	94,611
Panama	149,371	232,553	149,428	202,865	83,771	113,063	43,118	58,185	28,459	37,643	14,432	18,728	463,579	663,028
Salvador	234	351	325	513	692	1,029	1,354	1,981	2,280	3,182	2,526	3,980	7,411	11,036
Mexico	8,779	21,465	10,168	15,760	17,977	27,316	25,534	38,725	64,125	99,946	93,046	151,728	219,629	345,879
Miquelon, Langley, etc.	65	79	168	209	117	194	75	80	120	183	84	134	619	879

C. (continued).—EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June 30, 1910, 1911, 1912, 1913, 1914 and 1915.

IN BOTTLES OR JUGS

COUNTRIES	1910		1911		1912		1913		1914		1915		TOTAL	
	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value
West Indies: British...	30,445	\$42,322	2,406	3,283	3,037	4,267	3,656	5,345	4,107	6,229	5,964	8,934	30,445	\$42,322
Barbadoes...	...	...	1,735	2,231	2,006	3,178	2,415	3,826	3,391	5,458	3,095	4,417	19,170	28,088
Jamaica...	...	...	11,645	16,780	19,556	26,103	18,665	24,580	23,508	31,922	22,916	39,581	12,642	19,110
Trinidad & Tobago...	...	...	22,088	32,966	19,181	21,768	11,793	15,508	7,585	9,982	22,961	32,729	102,890	137,966
Danish...	27	28	...	...	40	70	370	555	148	239	56	98	83,608	112,953
Dutch...	108	120	629	690	235	401	50	69	12	17	779	1,221	641	990
French...	378	504	264	335	196	239	136	174	66	87	668	879	1,813	2,518
Haiti...	2,533	3,504	1,136	1,507	2,816	3,707	2,876	3,922	3,879	5,092	5,329	6,701	1,708	2,218
Dominican Republic...	5,898	8,376	4,536	6,275	8,939	12,233	14,197	17,683	30,989	38,471	62,425	67,015	18,569	24,433
Cuba...	58,467	84,452	50,755	71,872	35,534	51,342	37,282	52,163	41,771	54,761	37,531	54,584	116,984	150,053
So. America: Argentina...	1,621	2,106	2,295	3,431	3,600	5,222	5,856	7,839	11,244	13,185	2,510	3,479	261,340	369,174
Bolivia...	237	355	...	...	580	756	...	...	320	576	30	50	27,126	35,262
Brazil...	70	73	278	364	...	...	298	396	245	331	180	249	1,167	1,737
Chile...	481	704	247	321	706	866	637	912	77	106	1,445	1,967	1,071	1,413
Colombia...	3,310	4,544	4,741	6,249	7,466	9,519	8,051	11,866	9,202	12,043	12,696	16,544	2,593	4,876
Ecuador...	1,940	2,997	3,013	4,057	4,547	5,878	5,459	6,805	2,457	3,279	1,344	1,883	45,466	60,765
Guianas: British...	840	1,428	...	...	125	150	337	594	477	673	1,483	2,297	18,760	24,899
Dutch...	100	129	5	8	60	72	...	...	...	...	40	63	3,262	5,132
French...	85	108	...	...	...	...	...	...	...	...	...	...	205	272
Peru...	4,288	5,520	1,952	2,489	504	723	283	463	739	1,089	1,136	1,629	85	108
Uruguay...	68	84	...	...	...	...	...	...	...	...	...	...	8,902	11,913
Venezuela...	30	38	...	...	10	14	343	526	1,005	1,518	594	971	68	84
Asia:	...	...	...	...	...	...	...	...	...	...	...	...	1,982	3,067
China: Empire...	1,048	1,251	2,600	3,695	3,606	5,227	321	414	40	60	8,731	11,233	16,346	21,890
Japan (L.T.)...	...	...	...	...	47	78	...	...	...	...	...	...	47	78
French (L.T.)...	...	...	136	180	...	...	...	...	...	...	...	...	136	160
East Indies: British...	1,000	1,329	1,848	2,674	1,289	1,963	610	737	1,255	1,868	3,198	4,986	9,198	13,577
Dutch...	...	...	...	...	...	...	...	...	2	2	159	213	161	215
British, other...	865	1,094	1,467	2,059	2,802	3,663	3,030	3,828	5,779	7,858	6,611	10,282	20,554	28,784
Straits Settlements...	63	105	...	...	180	198	529	663	2,950	3,853	200	220	3,922	5,609

C (continued).—EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June 30, 1910, 1911, 1912, 1913, 1914, and 1915.

IN BOTTLES OR JUGS

COUNTRIES	1910		1911		1912		1913		1914		1915		TOTAL	
	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value	Dos. Qts.	Value
Asia:														
Hong Kong.....	3,690	\$4,458	1,793	\$2,686	1,308	\$2,058	156	\$208	156	\$213	487	\$631	7,570	\$10,254
Japan.....	180	300	1,588	2,754	400	482	995	1,300	643	803	520	805	4,326	6,444
Korea (Chosen).....	750	1,488	682	750	20	35	120	206	288	506	730	1,289	2,490	4,273
Russia.....	42	85	12	27	14	25	4	10	15	17	.....	.....	87	164
Turkey.....	2,639	3,106	3,888	4,837	10,554	11,276	3,768	4,614	120	189	.....	.....	20,969	24,022
Oceania:														
Australia, British.....	155	238	76	103	5	8	105	156	14,626	18,434	62,489	84,316	77,456	103,255
New Zealand.....	160	242	280	342	160	264	200	264	12	15	1,588	2,232	2,400	3,359
All other British.....	892	1,135	277	435	254	407	421	607	627	932	1,287	1,850	3,758	5,366
French.....	620	886	1,322	1,911	1,586	2,262	3,328	4,879	4,618	6,585	2,932	4,201	14,408	20,724
German.....	.....	.....	.....	.....	12	17	51	76	41	59	1,677	3,030	1,781	3,182
Philippine Islands.....	51,020	69,614	48,169	71,836	30,479	47,835	14,818	21,267	16,623	22,048	12,469	17,395	173,578	249,995
Africa:														
Belgian Kongo.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	385	509	385	509
British West.....	2,017	2,557	2,250	2,809	570	714	282	366	580	635	179	248	5,828	7,349
" South.....	.....	.....	.....	.....	86	137	.....	.....	.....	.....	.....	.....	88	137
" East.....	46	57	.....	.....	.....	.....	24	36	.....	.....	.....	.....	70	93
Canary Islands.....	115	143	12	16	.....	.....	.....	.....	.....	.....	.....	.....	127	159
French.....	.....	.....	18	24	.....	.....	.....	.....	.....	.....	56	109	74	133
Portuguese.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	840	1,067
Liberia.....	.....	.....	86	41	.....	.....	3	4	.....	.....	128	188	167	233
Egypt.....	1,250	1,526	1,220	1,485	800	1,015	240	295	240	456	83	122	3,833	4,989
Spanish.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10	13	10	13
Total.....	596,883	\$877,324	689,063	\$990,395	754,422	\$1,101,169	866,684	\$1,301,244	962,627	\$1,405,581	696,690	\$1,010,222	4,566,399	\$6,685,935

CH.—EXPORT of Beer, Ale and Porter to the principal foreign countries during the fiscal years ended June 30, 1910, 1911, 1912, 1913, 1914, and 1915.

IN OTHER COVERINGS

COUNTRIES	1910		1911		1912		1913		1914		1915		Total	
	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value
Europe:														
Belgium.....	78	\$20			216	\$53					198	\$	294	\$73
France.....	15	5					50	16	60	21			213	64
Germany.....			209	60									319	97
Gibraltar.....			250	112									250	112
Netherlands.....									28	10			28	10
Norway.....											206		206	57
England.....	60	20	115	40	30	10			160	48			365	118
North America:														
Bermuda.....	3,377	1,217	3,805	1,246	1,149	390	2,949	1,070	1,710	620	1,033	379	13,523	4,922
Canada.....	326,221	63,894	357,180	69,543	272,118	49,918	258,629	53,152	201,423	40,771	56,476	11,486	1,472,047	268,764
Newfoundland & Lab.					644	178	32	17					676	195
Central America:														
Costa Rica.....	625	230									1,277	458	1,902	688
Guatemala.....	1,020	365			50	20					600	181	1,520	516
Honduras.....			940	223									990	243
Nicaragua.....	30	5					466	147					496	152
Salvador.....			500	148									500	148
Panama.....	540	164	2,130	635	664	443					400	140	3,734	1,372
Mexico.....	30,575	10,491	36,895	8,851	7,912	2,379	34,271	10,477	82,558	25,656	155,704	48,107	347,895	105,961
West Indies: British.....	23,870	6,384											23,870	6,384
Barbadoes.....					255	76							265	76
British, other.....			260	75	78		2,100	560	2,700	720	570	155	5,708	1,538
Jamaica.....			17,355	4,868	14,468	3,907	7,600	2,041	12,172	3,438	5,975	1,760	67,570	16,014
Trinidad & Tobago.....					1,275	412			1,750	590			3,025	1,002
Dutch.....	30	7											30	7
Haiti.....	526	140	815	254	320	100	603	260	949	289			3,213	1,043
Dominican Republic.....	2,450	645	1,808	593	360	82			285	97	3,319	956	8,222	2,373
Cuba.....	35	19	890	392	1,723	847	1,110	391			1,601	637	6,359	2,286
South America:														
Chile.....			100	48									100	48
Colombia.....			1,602	586	3,125	966			855	343	290	101	5,872	1,996

C14(continued).—EXPORT of Beer, Ale and Porter to the principal foreign countries during the fiscal years ended June 30, 1910, 1911, 1912, 1913, 1914, 1915, 1916.

IN OTHER COVERINGS

COUNTRIES	1910		1911		1912		1913		1914		1915		TOTAL	
	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value
South America:														
Argentina.....	700	\$169		\$.....		\$.....		\$.....		\$.....	2,568	\$1,017	3,268	\$1,186
Brasil.....					31	12					25	8	56	20
Guianas:	250	85											250	85
French.....	50	18									30	10	80	28
Venezuela.....														
Asia:														
China.....											1,515	387	1,515	387
East Indies: Dutch.....											600	660	600	660
Japan.....					945	330			223	42	600	223	1,768	595
Oceania:														
Philippine Islands.....			27,340	7,490	31	9	5,155	2,088	20,996	6,352	11,337	4,540	64,859	20,479
Australia.....											26	6	26	6
British, other.....									1,097	598	420	195	1,517	793
German.....	25	11											25	11
Africa: Egypt.....											824	368	824	368
Total.....	390,477	\$73,859	451,694	\$85,164	305,394	\$60,150	312,965	\$70,219	326,946	\$79,595	245,494	\$71,890	2,032,970	\$440,877

THE 1916 YEAR BOOK OF

HOPS

D.—Imports of Foreign Hops for the Last 10 Fiscal Years.

YEARS	Pounds	Value	Duty	Ad valorem Rate of Duty
1906.....	10,113,989	\$2,326,982	1,213,679	52.15%
1907.....	6,211,893	1,974,900	745,427	37.74%
1908.....	8,493,265	1,989,261	1,019,191	51.23%
1909.....	7,386,574	1,337,099	886,389	66.29%
1910.....	3,200,560	1,449,354	505,457	33.71%
1911.....	8,557,531	2,706,600	1,369,205	50.58%
1912.....	2,991,125	2,231,348	478,580	21.45%
1913.....	8,494,144	2,852,865	1,359,063	47.63%
1914.....	5,382,025	2,790,516	861,124	30.85%
1915.....	11,651,332	2,778,735	1,864,213	67.80%
Total.....	78,462,438	\$23,387,660	\$10,302,328	

Of the Foreign Hops imported in 1915, there were received from:

COUNTRIES	Pounds	Value
Austria-Hungary.....	4,616,157	\$1,282,580
Denmark.....	8,113	2,250
Germany.....	5,370,388	1,180,945
Netherlands.....	1,039,912	170,758
Switzerland.....	513,927	119,323
England.....	99,014	21,792
Mexico.....	3,715	1,084
All other.....	106	3
Total as above.....	11,651,332	\$2,778,735

E.—EXPORTS of Domestic Hops for the Last 10 Fiscal Years.

YEARS	Pounds	Value
1906.....	13,026,904	\$3,125,843
1907.....	16,809,534	3,531,972
1908.....	22,920,490	2,963,167
1909.....	10,446,884	1,271,629
1910.....	10,589,254	2,062,140
1911.....	13,104,774	2,130,972
1912.....	12,190,663	4,648,505
1913.....	17,591,195	4,764,713
1914.....	24,262,896	6,953,529
1915.....	16,210,443	3,948,020
Total.....	158,153,027	\$35,400,492

THE UNITED STATES BREWERS' ASSOCIATION

E.—Of the Domestic Hops exported in 1915, there were shipped to:

COUNTRIES	Pounds	Value
England.....	13,408,909	\$3,393,233
Scotland.....	290,577	92,968
Ireland.....	124,403	15,130
Canada.....	1,071,601	192,759
Panama.....	13,727	2,917
Mexico.....	57,654	12,809
Newfoundland.....	11,479	1,692
Cuba.....	37,667	9,735
Argentina.....	20,323	5,066
Brazil.....	93,683	21,204
Chile.....	20,719	3,853
Colombia.....	12,634	3,345
Peru.....	13,854	2,688
British India.....	61,152	8,654
Japan.....	133,692	30,564
British Australia.....	613,123	101,074
New Zealand.....	28,381	4,586
Philippine Islands.....	30,770	5,993
British Africa, South.....	95,243	22,865
All other Countries, less than 10,000 pounds, each..	70,852	17,385
Total as above.....	16,210,443	\$3,948,020

BARLEY

F.—IMPORTATION of Foreign Barley for the Last 10 Fiscal Years.

YEARS	Bushels	Value	Duty	Rate of Duty
1906.....	18,049	\$9,803	\$5,415	55.23%
1907.....	38,319	14,033	11,496	81.92%
1908.....	199,741	143,407	59,922	41.78%
1909.....	2,644	1,440	793	55.08%
1910-1915*.....	.....	.....	.....	.....
Total.....	258,753	\$168,683	\$77,626	

*After 1909, included in "All Other Breadstuffs."

G.—EXPORTATION of Domestic Barley for the Last 10 Fiscal Years.

YEARS	Bushels	Value
1906.....	17,729,360	\$8,653,231
1907.....	8,238,842	4,556,295
1908.....	4,349,078	3,205,528
1909.....	6,580,393	4,672,166
1910.....	4,311,566	3,052,527
1911.....	9,399,346	5,381,360
1912.....	1,585,242	1,267,999
1913.....	17,536,703	11,411,819
1914.....	6,644,747	4,253,129
1915.....	26,754,522	18,184,079
Total.....	103,129,799	\$64,639,133

THE 1916 YEAR BOOK OF

G.—Of the Domestic Barley exported in 1915, there were shipped to:

COUNTRIES	Bushels	Value
Belgium.....	1,163,892	\$686,170
Denmark.....	4,906,634	3,598,776
France.....	646,714	426,543
Greece.....	623,928	566,670
Italy.....	24,966	19,972
Netherlands.....	545,997	431,827
Norway.....	465,665	345,331
Sweden.....	617,744	430,531
Turkey in Europe.....	139,424	104,568
England.....	8,423,856	5,318,565
Scotland.....	1,388,671	997,542
Ireland.....	5,081,340	3,580,001
Canada.....	318,483	164,870
Mexico.....	151,983	109,914
Cuba.....	10,061	7,920
Brazil.....	9,488	9,919
Colombia.....	1,069	1,104
British Guiana.....	3,878	3,986
Hongkong.....	6,411	5,387
British Australia.....	315,824	241,014
New Zealand.....	10,450	8,538
French Oceania.....	1,405	951
Philippine Islands.....	2,755	2,183
British Africa—South.....	4,306	4,363
Canary Islands.....	384,087	260,000
Portuguese Africa.....	1,501,481	856,226
All other Countries, less than 1,000 bushels, each.....	4,010	3,208
Total as above.....	26,754,522	\$18,184,079

H.—MALT BARLEY—Importations of Foreign, for the Last 10 Fiscal Years.

YEARS	Bushels	Value	Duty	Ad valorem Rate of Duty
1906.....	2,458	\$2,711	\$1,106	40.80%
1907.....	3,362	3,917	1,513	38.62%
1908.....	2,625	3,000	1,181	39.03%
1909.....	1,592	1,992	716	33.96%
1910-1911*.....	.....	.....	.....	.....
1912.....	3,771	5,098	1,697	35.28%
1913.....	10,419	15,121	4,734	31.30%
1914.....	13,472	16,367	3,368	20.57%
1915*.....	.....	.....	.....	.....
Total.....	37,699	\$48,106	\$14,315	

* Included in "All Other Articles" dutiable.

The importation, owing to the high duty, has decreased since 1891 to such an extent that it has almost disappeared as a factor in the brewing interest.

THE UNITED STATES BREWERS' ASSOCIATION

I.—RICE FLOUR, RICE MEAL, AND BROKEN RICE—Importations of Foreign, for the Last 10 Fiscal Years.

YEARS	Pounds	Value	Duty	Ad valorem Rate of Duty
1906.....	108,079,166	\$1,616,716	\$270,198	16.71%
1907.....	138,316,029	2,273,999	345,790	15.20%
1908.....	125,164,190	2,255,138	312,910	13.43%
1909.....	134,119,980	2,336,723	335,300	14.34%
1910.....	142,738,383	2,249,205	358,845	15.86%
1911.....	132,116,821	1,998,056	330,292	16.53%
1912.....	116,576,653	1,968,177	291,442	14.81%
1913.....	137,608,742	2,813,778	344,022	12.22%
1914.....	139,906,868	2,538,941	349,767	13.77%
1915.....	74,831,312	1,307,509	187,078	14.30%
Total.....	1,249,458,144	\$21,358,240	\$3,123,644	

J.—Of the Foreign Rice-Flour, etc., imported in 1915, there were received from:

COUNTRIES	Pounds	Value
Austria-Hungary.....	1,477,449	\$24,001
Denmark.....	2,205	100
France.....	2,384	259
Germany.....	6,778,050	110,495
Netherlands.....	10,192,667	159,978
England.....	24,376,176	469,042
Canada.....	5,668,595	134,016
China.....	10,720,259	160,596
Hongkong.....	5,142,316	87,256
Japan.....	1,738,352	37,007
Siam.....	8,732,308	124,750
From all other Countries, less than 1,000 pounds, each (Dutch East Indies).....	551	9
Total as above.....	74,831,312	\$1,307,509

MISCELLANEOUS

A.—ARTICLES EXPORTED WITH BENEFIT OF DRAWBACK.

Articles exported with benefit of Drawback, together with imported materials from which they were wholly or partly manufactured, and Drawback paid thereon, during the years ended June 30, 1914 and 1915.

Years	ARTICLES AS EXPORTED		IMPORTED MATERIALS CONTAINED THEREIN					
	Articles	Quantities	Articles	Quantities	Values	Drawback	Retention	Drawback Paid
1915	Spirits, Wines, Malt Liquors, and other Beverages:	171,097	{ Barley, grain (bushels).....	2,937	.....	\$440.55	\$4.43	\$436.12
	Malt Liquors—		{ Rice broken (pounds).....	158,098	.....	399.74	2.46	397.28
	In bottles—Beer (dozen quarts).....		{ Hops (pounds).....	8,365	.....	1,343.20	13.38	1,329.82
1914	In other coverings—Beer (gallons)...	108,510	Total.....	.....	.....	\$2,180.49	\$20.27	\$2,160.22
			Hops (pounds).....	1,871	.....	299.36	2.99	296.37
		671,935.33	Total.....	.....	.....	\$2,479.85	\$23.26	\$2,456.59
	Spirits, Wines, and Malt Liquors:		{ Rice, broken (pounds).....	372,645	.....	\$922.36	\$9.22	\$913.14
	Malt liquors, in bottles—Beer (dozen quarts).....		{ Hops (pounds).....	33,010	.....	5,225.79	52.29	5,173.50
			Total.....	.....	.....	\$6,151.15	\$61.51	\$6,089.64

B.—RATES OF DUTIES UNDER VARIOUS TARIFFS ON SUNDRY ARTICLES

ARTICLES	UNDER TARIFF OF						
	Old Tariff Chap. XXXIII Revised Statutes	March 3, 1893 (Commission's)	October 1, 1890 (McKinley's)	August 24, 1894 (Wilson's)	July 27, 1897 (Dingley's)	August 5, 1909 (Payne's)	October 3, 1913 (Underwood's)
Barley	15c. per bushel	10c. per bushel	30c. per bushel		30c. per bushel	30c. per bushel	15c. per bu. of 48 lbs.
Barley Malt	20%	20c.	45c.	30%	45c.	45c.	25c. per bu. of 34 lbs.
Hops	5c. per pound	8c. per pound	15c. per pound	40%	12c. per pound	16c. per pound	16c. per pound
Rice (Flour, Meal and broken)	20%	20%	1/4c.	"	1/4c.	1/4c.	1/4c.
Beer in Bottles	35c. per gal.	35c. per gal.	40c. per gal.	30c. per gal.	40c. per gal.	45c. per gal.	45c. per gal.
Beer not in Bottles	20c.	20c.	20c.	15c.	20c.	23c.	23c.
	30% on the bottles	30% on the bottles	No separate or	additional duty on	the bottles.	No sep. or add'l	No sep. or add'l
Distilled Liquors	\$2.00 per proof gal.	\$2.00 per proof gal.	\$2.50 per proof gal.	\$1.80 per proof gal.	\$2.25 per proof gal.	\$2.60 per proof gal.	\$2.60 per proof gal.
Tobacco, etc.	15c., 35c., 50c., per pound	15c., 35c., 40c., 50c., 75c., 30%	35c., 40c., 50c. \$2.00, \$2.75 per lb.	35c., 40c., 50c. \$1.50, \$2.25 per lb.	35c., 40c., 55c. \$1.85, \$2.50 per lb.	35c., 40c., 55c. \$1.85, \$2.50 per lb.	30c., 50c., 55c. \$1.85, \$2.50 per lb.
Cigars, Cheroots, etc.	\$2.50 per lb. & 25%	\$2.50 per lb. & 25%	\$4.50 per lb. & 25%	\$4.00 per lb. & 25%	\$4.50 per lb. & 25%	\$4.50 per lb. & 25%	\$4.50 per lb. & 25%
Wines, sparkling	\$6.00 per dos. qta.	\$7.00 per dos. qta.	\$8.00 per dos. qta.	\$8.00 per dos. qta.	\$8.00 per dos. qta.	\$9.60 per dos. qta.	\$9.60 per dos. qta.
	\$3.00 pta.	\$3.50 pta.	\$4.00 pta.	\$4.00 pta.	\$4.00 pta.	\$4.80 pta.	\$4.80 pta.
	\$1.50 = 1/4 pta.	\$1.75 = 1/4 pta.	\$2.00 = 1/4 pta.	\$2.00 = 1/4 pta.	\$2.00 = 1/4 pta.	\$2.40 = 1/4 pta.	\$2.40 = 1/4 pta.
Bottles	3c. each						
Wines in cases	25c., 60c. per gal. \$1.00 p. g. & 25%	\$1.60 per case of 1 dos. q. or 2 dos. p.	\$1.60 per case of 1 dos. q. or 2 dos. p.	\$1.60 per case of 1 dos. q. or 2 dos. p.	\$1.60 per case of 1 dos. q. or 2 dos. p.	\$1.85 per case of 1 dos. q. or 2 dos. p.	\$1.85 per case of 1 dos. q. or 2 dos. p.
							plus 6c. per p. excess
Bottles	3c. each						
Wines in casks	25c., 60c. per gal. \$1.00 p. g. & 25%	50c. per gal.	50c. per gal.	{ 30c. per gal. 50c.	40c. per gal. 50c.	45c. per gal. 60c.	45c. per gal. 50c.

NOTE:—Under the Act approved March 8, 1902, the duties on articles and merchandise from the Philippine Islands are 75% of the Dingley Tariff. Section 5 of the Act of August 5, 1909, permits the free importation of Sugar, Tobacco and Cigars within certain limits, and imposes duty on all above the limit and on all other dutiable merchandise from those Islands at the rates in the Act, and under the convention entered into with Cuba, proclaimed by the President December 17, 1903, a reduction of 20% is allowed on all articles and merchandise from Cuba.

POSTSCRIPT

THE WEBB-KENYON DECISION

While the "Year Book" was being made up, the Supreme Court of the United States handed down a decision (on January 8, 1917) sustaining the constitutionality of the Webb-Kenyon law. Though an event of 1917 is out of place, strictly speaking, in a record of the events of the previous year, the decision is of such importance that it has been deemed well to insert it as a postscript to the present volume, together with some of the comments of the principal newspapers, as follows:

SUPREME COURT OF THE UNITED STATES

Nos. 75 and 76.—OCTOBER TERM, 1916

The James Clark Distilling Company,	}	Appeals from the District Court of the United States for the District of Maryland.
Appellant,		
75 <i>vs.</i>		
The Western Maryland Railway Company and The State of West Virginia.		
The James Clark Distilling Company,		
Appellant,		
76 <i>vs.</i>		
The American Express Company and The State of West Virginia.		

[January 8, 1917]

Mr. Chief Justice WHITE delivered the opinion of the Court.

To refer to the principal state law relating to these suits, to the pleadings and the decision of the court below will make the issues

in these cases clear and point directly to the elements required to be considered in deciding them.

West Virginia in February, 1913, enacted a prohibition law to go into effect on July 1st of the following year. Code 1913, c. 32A. Putting out of view the right of druggists under stringent regulations provided by the statute to sell for medicinal purposes and the right otherwise to sell wine for sacramental and alcohol for scientific and manufacturing purposes, the law forbade "the manufacture, sale, keeping or storing for sale in this State, or offering or exposing for sale" intoxicating liquors, and the intoxicants embraced were comprehensively defined. The statute contained many restrictions concerning hotels, restaurants, clubs and so-called associations where liquor was kept and served either as a result of membership or by gift or otherwise, which were evidently intended to prevent the frustration of the prohibitions against the keeping of intoxicants for sale and purchase by subterfuge in the guise of the exercise of an individual right. There was no express prohibition against the individual right to use intoxicants and none implied unless that result arose (a) from the prohibition in universal terms of all sales and purchases of liquor within the State, (b) from the clause providing that every delivery made in the State by a common or other carrier of the prohibited intoxicants should be considered as a consummation of a sale made in the State at the point of delivery, and (c) from the prohibitions which the statute contained against solicitations made to induce purchases of liquor and against the publication in the State of all circulars, advertisements, price lists, etc., which might tend to stimulate purchases of liquor.

Under this statute and in reliance upon the provisions of the Act of Congress known as the Webb-Kenyon Law, (Act of Congress of March 1, 1913, 37 Stat. 699) the State of West Virginia in one of its courts sued the Western Maryland Railroad Company and the Adams Express Company to enjoin them from carrying from Maryland into West Virginia liquor in violation of law. In substance it was charged that very many shipments had been taken by the carriers contrary to the law both as to solicitations and as to the use for which the liquor was intended. Preliminary injunctions were issued restraining the carrying of liquor into the State

subject to many conditions as to investigation, etc., etc. With these injunctions in force, these suits were commenced by the Clark Distilling Company to compel the carriers to take a shipment of liquor which it was asserted was ordered for personal use and deliver it in West Virginia, on the ground that the Act of Congress to Regulate Commerce imposed the duty to receive and carry and that besides the West Virginia prohibition law when rightly construed did not forbid it. The carriers, not challenging the asserted meaning of the West Virginia law, set up the injunctions and averred that to receive and carry the liquor would violate their provisions and therefore there was no duty under the United States law to do so. West Virginia intervened in the suits, relying upon the state law and the injunctions which had been issued. At the trial it was shown that the plaintiff Distilling Company had systematically solicited purchases and constantly shipped liquor from Maryland into West Virginia in violation of the prohibition law. The court held that the West Virginia law did not prohibit personal use, and did not forbid shipments for such use and that as there was no state prohibition, the Webb-Kenyon Law had no application, and that as the solicitations forbidden by the state statute were solicitations to do that which was forbidden, that consideration was irrelevant. The construction of the statute made by the state court was held not authoritatively binding, as that court was not one of last resort, and the right to practically modify the injunctions was declared to exist because West Virginia by making herself a party to the suits had submitted herself to the jurisdiction of the court. All questions concerning the power of the State of West Virginia to pass the prohibition law if it meant otherwise, and of the right of Congress to adopt the Webb-Kenyon Act under a like hypothesis, were reserved. 219 Fed. Rep. 333. Before the decrees entered became final the circuit Court of Appeals for the Fourth Circuit in a case pending before it (*West Virginia v. Adams Express Company*, 219 Fed. Rep. 794) decided directly to the contrary. It held that the law of West Virginia did prohibit shipments for personal use; that it did forbid solicitations therefore for such purchases; that by operation of the Webb-Kenyon Act there was no longer a right to ship

liquor into the State in violation of its laws; and that both the state law and the Webb-Kenyon Act were constitutional. Controlled by such decision, the trial court recalled its opinion, heard a re-argument, and, although not changing its view, accepted and gave effect to the conclusions reached by the Circuit Court of Appeals because they were deemed to be authoritative, and the cases were brought directly here, because of the constitutional questions, to review such action.

The issues to be decided may be embraced in four propositions which we proceed separately to consider.

1. The correct meaning of the West Virginia law as to the subjects in dispute.

The difference as to the meaning of the statute in the court below was whether or not the West Virginia law prohibited the receipt of liquor for personal use; and if it did, whether or not the prohibitions of the law equally applied to shipments from outside and to those originating in the State. But the possibility of dispute over these subjects no longer exists because after the decision below and since the cases were first argued (for they have been here argued twice) the State of West Virginia amended the statute so as to leave no room for doubt that it does forbid all shipments, whether for personal use or otherwise, and whether from within or without the State. The pertinent provisions of the amendments are placed in the margin.* As the relief sought is

* "Sec. 7. It shall be unlawful for any person to keep or have, for personal use or otherwise, or to use, or permit another to have, keep or use, intoxicating liquors at any restaurant, store, office building, club, place where soft drinks are sold (except a drug store may have and sell alcohol and wine as provided by sections four and twenty-four), fruit stand, news stand, room, or place where bowling alleys, billiard or pool tables are maintained, livery stable, boat house, public building, park, road, street or alley. It shall also be unlawful for any person to give or furnish to another intoxicating liquors, except as otherwise hereinafter provided in this section. Any one violating this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars, nor more than five hundred dollars, and be imprisoned in the county jail not less than two nor more than six months; *provided, however*, that nothing contained in this section shall prevent one, in his home, from having and

the permanent right to ship in the future, the meaning of the statute now, that is, as amended, is the test by which we must consider the questions requiring solution. Indeed, this is frankly admitted by the parties since it is unequivocally declared that the question is the operation and effect of the statute as amended and its constitutionality. We therefore come to the second question, which is:

2. *The power of the State to enact the prohibition law consistently with the due process clause of the Fourteenth Amendment and the exclusive power of Congress to regulate commerce among the several States.*

That government can, consistently with the due process clause, forbid the manufacture and sale of liquor and regulate its traffic,

there giving to another intoxicating liquors when such having or giving is in no way a shift, scheme or device to evade the provisions of this act; but the word 'home' as used herein, shall not be construed to be one's club, place of common resort, or room of a transient guest in a hotel or boarding house. And, *provided, further*, that no common carrier, for hire, nor other person, for hire or without hire, shall bring or carry into this state, or carry from one place to another within the state, intoxicating liquors for another, even when intended for personal use; except a common carrier may, for hire, carry pure grain alcohol and wine, and such preparations as may be sold by druggists for the special purposes and in the manner as set forth in sections four and twenty-four; and, *provided, further, however*, that in case of search and seizure, the finding of any liquors shall be *prima facie* evidence that the same are being kept and stored for unlawful purposes."

"Sec. 34. It shall be unlawful for any person in this state to receive, directly or indirectly, intoxicating liquors from a common, or other carrier. It shall also be unlawful for any person in this state to possess intoxicating liquors, received directly or indirectly from a common, or other carrier in this state. This section shall apply to such liquors intended for personal use, as well as otherwise, and to interstate, as well as intrastate, shipments or carriage. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than two hundred dollars, and in addition thereto may be imprisoned not more than three months; provided, however, that druggists may receive and possess pure grain alcohol, wine and such preparations as may be sold by druggists for the special purpose and in the manner as set forth in sections four and twenty-four."

is not open to controversy; and that there goes along with this power full police authority to make it effective, is also not open. Whether the general authority includes the right to forbid individual use, we need not consider, since clearly there would be power, as an incident to the right to forbid manufacture and sale, to restrict the means by which intoxicants for personal use could be obtained, even if such use was permitted. This being true, there can be doubt that the West Virginia prohibition law did not offend against the due process clause of the Fourteenth Amendment.

But that it was a direct burden upon interstate commerce and conflicted with the power of Congress to regulate commerce among the several States, and therefore could not be used to prevent interstate shipments from Maryland into West Virginia, has been not open to question since the decision in *Leisy v. Hardin*, 135 U. S. 100. And this brings us to consider whether the Webb-Kenyon Law has so regulated interstate commerce as to give the State the power to do what it did in enacting the prohibition law and cause its provisions to be applicable to shipments of intoxicants in interstate commerce, thus saving that law from repugnancy to the Constitution of the United States, which is the third proposition for consideration.

3. *Assuming the constitutionality of the Webb-Kenyon Act, what is its true meaning and its operation upon the prohibitions contained in the West Virginia law?*

Omitting words irrelevant to the subject now under consideration, the title and text of the Webb-Kenyon Act are as follows:

"An Act divesting intoxicating liquors of their interstate character in certain cases.

". . . That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, . . . into any other State, Territory, or District of the United States, . . . which said spirituous, vinous, malted, fermented, or other in-

toxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States . . . is hereby prohibited."

As the state law forbade the shipment into or transportation of liquor in the State whether from inside or out, and all receipt and possession of liquor so transported without regard to the use to which the liquor was to be put, and as the Webb-Kenyon Act prohibited the transportation in interstate commerce of all liquor "intended to be received, possessed, sold or in any manner used, either in the original package or otherwise, in violation of any law of such State," there would seem to be no room for doubt that the prohibitions of the state law were made applicable by the Webb-Kenyon Law. If that law was valid, therefore, the state law was not repugnant to the commerce clause. It is insisted that this view gives too wide an effect to the Webb-Kenyon Law since that act was only intended to include state prohibitions in so far as they forbade the shipment, receipt and possession of liquor for a forbidden use, and hence as individual use was not forbidden by the state law, the shipment, receipt and possession for such use was not embraced by the Webb-Kenyon Act and the state law, so far as it was outside of that Act, was repugnant to the commerce clause. This is sought to be supported by the historical environment of the Webb-Kenyon Act as evidenced by the debates on its passage and by a decision of this court, as well as decisions of state courts (which are in the margin *) which, it is insisted, have so construed that act.

Assuming, for the sake of argument only, that the debates may be resorted to for the purpose of showing environment, we are of opinion they clearly establish a result directly contrary to that which they are cited to maintain. Undoubtedly they show that

* *Van Winkle v. State*, 27 Delaware 578; *Adams Express Co. v. Commonwealth*, 154 Kentucky 462; *Adams Express Co. v. Commonwealth*, 160 Kentucky 66; *Palmer v. Southern Express Co.*, 129 Tennessee 116; *Exparte Peede*, 170 S. W. (Texas Crim. App.) 749.

it was insisted the Act was not intended to interfere with personal use, as of course it was not, since its only purpose was to give effect to state prohibitions, not to compel the States to prohibit personal use. Indeed, the meaning which it is sought to affix to the Webb-Kenyon Act, if accepted, would cause that act to have the effect of compelling the States to prohibit personal use, since if all the prohibitions of state laws against manufacture, sale, receipt and possession of intoxicants remained subject to the danger of indirect violation by permitting shipment, receipt and possession for personal use, it would follow that a necessary and immediate incentive was imposed upon the States by the Webb-Kenyon Act to enact a provision against personal use.

The antecedents of the Webb-Kenyon Act, that is, its legislative and judicial progenitors, leave no room for the contention made. To correct the great evil which was asserted to arise from the right to ship liquor into a State through the channels of interstate commerce and there receive and sell the same in the original package in violation of state prohibitions, was indisputably the purpose which led to the enactment of the Wilson Law (Act of Congress of August 8, 1890, 26 Stat. 313) forbidding the sale of liquor in a State in the original package even although brought in through interstate commerce when the existing or future state laws forbade sales of intoxicants. And this was recognized by the long line of decisions (a few of the leading cases are in the margin *) which upheld that law and pointed out that it permitted the state prohibitions to take away from interstate commerce shipments a right which they otherwise would have embraced, that is, the right to sell after receipt in the original package, any state law to the contrary notwithstanding. At the same time it was recognized, however, that as the right to receive liquor was not affected by the Wilson Act, such receipt and the possession following from it and the resulting right to use remained protected by the commerce clause even in a State where what is known as the dispensary system prevailed. *Vance v. Vandercook*, 170 U. S. 438. Reading

* In *re Rahrer*, 140 U. S. 545; *Rhodes v. Iowa*, 170 U. S. 412; *American Express Co. v. Iowa*, 196 U. S. 133; *Pabst Brewing Co. v. Crenshaw*, 198 U. S. 17; *Rosenberger v. Pacific Express Co.*, 241 U. S. 48.

the Webb-Kenyon Law in the light thus thrown upon it by the Wilson Act and the decisions of this court which sustained and applied it, there is no room for doubt that it was enacted simply to extend that which was done by the Wilson Act, that is to say, its purpose was to prevent the immunity characteristic of interstate commerce from being used to permit the receipt of liquor through such commerce in States contrary to their laws, and thus in effect afford a means by subterfuge and indirection to set such laws at naught. In this light it is clear that the Webb-Kenyon Act, if effect is to be given to its text, but operated so as to cause the prohibitions of the West Virginia law against shipment, receipt and possession to be applicable and controlling irrespective of whether the state law did or did not prohibit the individual use of liquor. That such also was the embodied spirit of the Webb-Kenyon Act plainly appears since if that be not true, the coming into being of the Act is wholly inexplicable.

The case in this court relied upon to establish the contrary (*Adams Express Company v. Kentucky*, 238 U. S. 190) clearly does not do so. All that was decided in that case was that as the court of last resort of Kentucky into which liquor had been shipped had held that the state statute did not forbid shipment and receipt of liquor for personal use, therefore the Webb-Kenyon Act did not apply, since it only applied to things which the state law prohibited. The leading state case cited is *Van Winkle v. State*, 27 Delaware 578. It is true in that case the state law prohibited shipment to and receipt of intoxicants in local option territory, and if the Webb-Kenyon Law had been applied, there would have been no possible ground for claiming that the state prohibitions could be escaped because the liquor was shipped in interstate commerce. But the shipment was held to be protected as interstate commerce despite the state prohibition because the Webb-Kenyon Law was not correctly applied, for the following reason: Coming to consider the text of that law, the court said that as the Webb-Kenyon Act prohibited the shipment of intoxicants "only when liquor is intended to be used in violation of the law of the State," and as the liquor shipped was intended for personal use, which was not forbidden, therefore the shipment, although prohibited by the state

law, was beyond the reach of the Webb-Kenyon Act. But we see no ground for following the ruling thus made since, as we have already pointed out, it necessarily rested upon an entire misconception of the text of the Webb-Kenyon Act, because that Act did not simply forbid the introduction of liquor into a State for a prohibited use, but took the protection of interstate commerce away from all receipt and possession of liquor prohibited by state law.

The movement of liquor in interstate commerce and the receipt and possession and right to sell prohibited by the state law having been in express terms divested by the Webb-Kenyon Act of their interstate commerce character, it follows that if that Act was within the power of Congress to adopt, there is no possible reason for holding that to enforce the prohibitions of the state law would conflict with the commerce clause of the Constitution; and this brings us to the last question, which is:

4. *Did Congress have power to enact the Webb-Kenyon Law?*

We are not unmindful that opinions adverse to the power of Congress to enact the law were formed and expressed in other departments of the government. Opinion of the Attorney General, 30 Op. A. G. 88; Veto Message of the President, 49 Cong. Rec. 4291. We are additionally conscious, therefore, of the responsibility of determining these issues and of their serious character.

It is not in the slightest degree disputed that if Congress had prohibited the shipment of all intoxicants in the channels of interstate commerce and therefore had prevented all movement between the several States, such action would have been lawful because within the power to regulate which the Constitution conferred. *Lottery Case*, 188 U. S. 321; *Hoke v. United States*, 227 U. S. 308. The issue, therefore, is not one of an absence of authority to accomplish in substance a more extended result than that brought about by the Webb-Kenyon Law, but of a want of power to reach the result accomplished because of the method resorted to for that purpose. This is certain since the sole claim is that the Act was not within the power given to Congress to regulate because it submitted liquors to the control of the States by subjecting interstate

commerce in such liquors to present and future state prohibitions, and hence in the nature of things was wanting in uniformity. Let us test the contentions by reason and authority.

The power conferred is to regulate, and the very terms of the grant would seem to repel the contention that only prohibition of movement in interstate commerce was embraced. And the cogency of this is manifest since if the doctrine were applied to those manifold and important subjects of interstate commerce as to which Congress from the beginning has regulated, not prohibited, the existence of government under the Constitution would be no longer possible.

The argument as to delegation to the States rests upon a mere misconception. It is true the regulation which the Webb-Kenyon Act contains permits state prohibitions to apply to movements of liquor from one State into another, but the will which causes the prohibitions to be applicable is that of Congress, since the application of state prohibitions would cease the instant the act of Congress ceased to apply. In fact the contention previously made that the prohibitions of the state law were not applicable to the extent that they were broader than the Webb-Kenyon Act is in direct conflict with the proposition as to delegation now made.

So far as uniformity is concerned, there is no question that the Act uniformly applies to the conditions which call its provisions into play—that its provisions apply to all the States,—so that the question really is a complaint as to the want of uniform existence of things to which the Act applies and not to an absence of uniformity in the Act itself. But aside from this it is obvious that the argument seeks to engraft upon the Constitution a restriction not found in it, that is, that the power to regulate conferred upon Congress obtains subject to the requirement that regulations enacted shall be uniform throughout the United States. In view of the conceded power on the part of Congress to prohibit the movement of intoxicants in interstate commerce, we cannot admit that because it did not exert its authority to the full limit, but simply regulated to the extent of permitting the prohibitions in one State to prevent the use of interstate commerce to ship liquor from another State, Congress exceeded its authority to regulate.

We can see, therefore, no force in the argument relied upon tested from the point of view of reason, and we come to the question of authority.

It is settled, says the argument, that interstate commerce is divided into two great classes, one embracing subjects which do not exact uniformity and which, although subject to the regulation of Congress, are in the absence of such regulation subject to the control of the several States (*Cooley v. Port Wardens of Philadelphia*, 12 How. 299), and the other embracing subjects which do require uniformity and which in the absence of regulation by Congress remain free from all state control (*Leisy v. Hardin*, 135 U. S. 100). As to the first, it is said, Congress may, when regulating, to the extent it deems wise to do so permit state legislation enacted or to be enacted to govern, because to do so would only be to do that which would exist if nothing had been done by Congress. As to the second class, the argument is, that in adopting regulations Congress is wholly without power to provide for the application of state power to any degree whatever, because in the absence of the exertion by Congress of power to regulate, the subject matter would have been free from state control, and because, besides, the recognition of state power under such circumstances would be to bring about a want of uniformity. But granting the accuracy of the two classifications which the proposition states, the limitation upon the power of Congress to regulate which is deduced from the classifications finds no support in the authority relied upon to sustain it. Let us see if this is not the case by examining the authority relied upon. What is that authority? The ruling in *Leisy v. Hardin*, *supra*. But that case, instead of supporting the contention, plainly refutes it for the following reason: Although *Leisy v. Hardin* declared in express terms that the movement of intoxicants in interstate commerce belonged to that class which was free from all interference by state control in the absence of regulation by Congress, it was at the same time in the most explicit terms declared that the power of Congress to regulate interstate commerce in intoxicants embraced the right to subject such movement to state prohibitions and that the freedom of intoxicants to move in interstate commerce and the protection over

it from state control arose only from the absence of congressional regulation and would endure only until Congress had otherwise provided. Thus in that case in pointing out that the movement of intoxicants in interstate commerce was under the control of Congress despite the wide scope of the police authority of the State over the subject, it was said (p. 108): "Yet a subject matter which has been confided exclusively to Congress by the Constitution is not within the jurisdiction of the police power of the State, unless placed there by congressional action." Again, referring to the uniform operation of interstate commerce regulations it was said (p. 109): "Hence, inasmuch as interstate commerce, consisting in the transportation, purchase, sale and exchange of commodities, is national in its character, and must be governed by a uniform system, so long as Congress does not pass any law to regulate it, or allowing the State so to do, it thereby indicates its will that such commerce shall be free and untrammelled." Further the court said (p. 119): "The conclusion follows that, as the grant of the power to regulate commerce among the States, so far as one system is required, is exclusive, the States cannot exercise that power without the assent of Congress, . . ." Again after pointing out that the question of the prohibition of manufacture and sale of particular articles was a matter of state concern, it was said (p. 123): "But notwithstanding it is not vested with supervisory power over matters of local administration, the responsibility is upon Congress, so far as the regulation of interstate commerce is concerned, to remove the restriction upon the State in dealing with imported articles of trade within its limits, which have not been mingled with the common mass of property therein, if in its judgment the end to be secured justifies and requires such action." And finally, after pointing out that the States had no power to interfere with the movement of goods in interstate commerce before they had been commingled with the property of the State, it was said that this limitation obtained "in the absence of congressional permission" to the State (p. 124).

Thus it follows that although we accept the classification of interstate commerce in intoxicants made in *Leisy v. Hardin*, we could not accept the contention which is now based upon that classification

without in effect overruling that case, or what is equivalent thereto, refusing to give effect to the doctrine of that case announced in terms so certain that there is no room for controversy or contention concerning them. But we would be required to go further than this, since it would result that we would have to shut our eyes to the construction put upon the ruling in *Leisy v. Hardin* by Congress in legislating when it adopted the Wilson Act and also to practically overrule the line of decisions which we have already referred to sustaining and enforcing that Act. Let us see if this is not certain. As we have already pointed out, the very regulation made by Congress in enacting the Wilson Law to minimize the evil resulting from violating prohibitions of state law by sending liquor through interstate commerce into a State and selling it in violation of such law was to divest such shipments of their interstate commerce character and to strip them of the right to be sold in the original package free from state authority which otherwise would have obtained. And that Congress had the right to enact this legislation making existing and future state prohibitions applicable, was the express result of the decided cases to which we have referred, beginning with *In re Rahrer, supra*. As the power to regulate which was manifested in the Wilson Act and that which was exerted in enacting the Webb-Kenyon Law are essentially identical, the one being but a larger degree of exertion of the identical power which was brought into play in the other, we are unable to understand upon what principle we could hold that the one was not a regulation without holding that the other had the same infirmity, a result which, as we have previously said, would reverse *Leisy v. Hardin* and overthrow the many adjudications of this court sustaining the Wilson Act.

These considerations dispose of the contention, but we do not stop with stating them but recur again to the reason of things for the purpose of pointing out the fundamental error upon which the contention rests. It is this: the mistaken assumption that the accidental considerations which cause a subject on the one hand to come under state control in the absence of congressional regulation, and other subjects on the contrary to be free from state control until Congress has acted, are the essential criteria by which

to test the question of the power of Congress to regulate and the mode in which the exertion of that power may be manifested. The two things are widely different, since the right to regulate and its scope and the mode of exertion must depend upon the power possessed by Congress over the subject regulated. Following the unerring path pointed out by that great principle we can see no reason for saying that although Congress in view of the nature and character of intoxicants had a power to forbid their movement in interstate commerce, it had not the authority to so deal with the subject as to establish a regulation (which is what was done by the Webb-Kenyon Law) making it impossible for one State to violate the prohibitions of the laws of another through the channels of interstate commerce. Indeed, we can see no escape from the conclusion that if we accepted the proposition urged, we would be obliged to announce the contradiction in terms that because Congress had exerted a regulation lesser in power than it was authorized to exert, therefore its action was void for excess of power. Or, in other words, stating the necessary result of the argument from a concrete consideration of the particular subject here involved, that because Congress in adopting a regulation had considered the nature and character of our dual system of government, State and Nation, and instead of absolutely prohibiting, had so conformed its regulation as to produce co-operation between the local and national forces of government to the end of preserving the rights of all, it had thereby transcended the complete and perfect power of regulation conferred by the Constitution. And it is well again to point out that this abnormal result to which the argument leads concerns a subject as to which both State and Nation in their respective spheres of authority possessed the supremest authority before the action of Congress which is complained of, and hence the argument virtually comes to the assertion that in some undisclosed way by the exertion of congressional authority, power possessed has evaporated.

It is only necessary to point out that the considerations which we have stated dispose of all contentions that the Webb-Kenyon Act is repugnant to the due process clause of the Fifth Amendment,

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since what we have said concerning that clause in the Fourteenth Amendment as applied to state power is decisive.

Before concluding we come to consider what we deem to be arguments of inconvenience which are relied upon, that is, the dread expressed that the power by regulation to allow state prohibitions to attach to the movement of intoxicants lays the basis for subjecting interstate commerce in all articles to state control and therefore destroys the Constitution. The want of force in the suggested inconvenience becomes patent by considering the principle which after all dominates and controls the question here presented, that is, the subject regulated and the extreme power to which that subject may be subjected. The fact that regulations of liquor have been upheld in numberless instances which would have been repugnant to the great guarantees of the Constitution but for the enlarged right possessed by government to regulate liquor, has never that we are aware of been taken as affording the basis for the thought that government might exert an enlarged power as to subjects to which under the constitutional guarantees such enlarged power could not be applied. In other words, the exceptional nature of the subject here regulated is the basis upon which the exceptional power exerted must rest and affords no ground for any fear that such power may be constitutionally extended to things which it may not, consistently with the guarantees of the Constitution, embrace.

Affirmed.

Mr. Justice McREYNOLDS concurs in the result.

Mr. Justice HOLMES and Mr. Justice VAN DEVANTER dissent.

A true copy.

Test:

Clerk Supreme Court, U. S.

COMMENTS OF THE PRESS

A VICTORY FOR COMMON-SENSE IN PROHIBITION

The decision of the Supreme Court sustaining the Webb-Kenyon law ought to be hailed with a hearty welcome by all who believe in rational treatment of the liquor question, whether prohibitionists or anti-prohibitionists. No one denies the right of a State to enact prohibition laws. Whether such laws are wise or foolish, beneficent or injurious, is a question on which there is, and will long continue to be, emphatic difference of opinion; but since jurisdiction of the question resides in the State, there ought to be no difference of opinion on the desirability of the State being free to carry out its purpose, unhampered by an adventitious obstacle. Such an obstacle, arising not out of the operation of any fundamental principle, but by what can hardly be called anything but an accident, was that which arose from the absence of power in the individual States to interfere with liquor imports from other States because these were a part of interstate commerce, over which Congress has exclusive control. Congress removed the difficulty by passing the Webb-Kenyon Act, which permits the exclusion of such imports; and the Supreme Court has now declared that the act is constitutional. The only substantial ground, we take it, for contesting its validity was that it is an unconstitutional delegation of power to the States; but the Supreme Court declares—to use the words of Chief Justice White in announcing the majority opinion—that “we can have no doubt that Congress has complete authority to prevent paralyzing of State authority.” In other words, it is not as an interference with interstate commerce, but in the exercise, in good faith, of a function undisputedly belonging to the police power of the State, that liquor from other States is excluded by a State which prohibits its manufacture, sale, or use within its own borders; and the realities, as distinguished from mere technicalities, of the

constitutional distribution of State and Federal powers are not disturbed, but strengthened, by the Supreme Court's decision.

It will now be possible for the prohibition experiment to be tried in a more thorough and convincing manner than has thus far been the case. Those States which are thoroughly in earnest in the matter—and some of them unquestionably are—will be put upon their mettle to show what can be done with the vexatious and illogical difficulty arising out of interstate shipments removed. It has been a standing reproach to many of the prohibition States that great quantities of liquor are consumed in them, sometimes in open and sometimes in more or less secret violation of the law. That this is not by any means wholly to be ascribed to the difficulty which the Webb-Kenyon law was enacted to remove is true enough; in Maine, for example, during nearly the whole of the two generations in which that State has lived under a so-called prohibition régime, the non-enforcement of the law has been too scandalously evident to require any special explanation. But general knowledge of the fact that, by the verdict of our national court of last resort, control of the liquor question within its own borders has been placed absolutely in the power of each State, must have the effect of driving home, far more effectually than has hitherto been the case, responsibility for any such failure. In this situation it ought to be possible for honest and right-minded men effectively to insist that prohibitory laws shall be either enforced or repealed.

The bearing of the whole matter upon the subject of national prohibition is of the utmost importance. The adoption of a Constitutional amendment enforcing prohibition throughout the Union, without regard to the wishes of the people of the individual States, would be incomparably the greatest departure from the spirit of our Federal Union that has been taken since the foundation of our Government. It would call for the regulation by Federal authority of a matter intimately affecting the daily life of the people of every State; a matter, too, upon which there exists the greatest possible diversity of habit and sentiment in the manifold varieties of city and country communities throughout the Union. Furthermore, the subject is one upon which experience has shown that there is a constant shifting of public opinion in those States, and

subdivisions of States, which have experimented with it; but whereas within a State it is easily possible to repeal prohibitory laws if experience recommends such a course, the repeal of a Constitutional amendment, once adopted, would be almost impossible. However badly it might work in New York, and Massachusetts, and Pennsylvania, and other great States with large urban populations, their people could never throw off its burden so long as there were twelve States, however small, remote or sparsely settled, which insisted on retaining the prohibition amendment.

When the question of a national prohibition amendment again comes up in Congress, those who realize the extreme gravity of such a step should perceive that with the upholding of the Webb-Kenyon Act one of the chief props of the argument in favor of it has been taken away. However great the uncertainties and dangers attending it, however serious the departure from the spirit of our institutions, and however difficult the undoing of the error if it should prove an error, the advocates of a national prohibition amendment have been able to urge in favor of it the consideration that the States were powerless to bring about effective prohibition, and that therefore if it was to be had at all it must be had through Federal action. This plea can no longer be made. Furthermore, it will now be possible to watch the operation of prohibition in the various States with a better chance than heretofore of getting some sort of idea of how we may expect national prohibition to work; and surely it would be the height of rashness to take that plunge until we have incomparably better warrant than we have at present for supposing that it will work well.—*N. Y. Evening Post*, Jan. 9, 1917.

STATE PROHIBITION LAWS MADE EFFECTIVE

As a happy escape from the oppression and injustice of an amendment to the Federal Constitution prohibiting the sale of liquor throughout the Union, the decision of the Supreme Court affirming the constitutionality of the Webb-Kenyon Act will be welcomed and applauded. It is from that point of view, indeed, that approval of the decision will be chiefly given, easiest given, for the success

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of certain States in forcing upon all the States the adoption of their views, their practices, and their habits would be repugnant to the sense of natural right and justice, it would be destructive of our theory of local self-government. That the court has found for the country a way of escape from that peril will serve in most minds as a very substantial offset to the many and grave objections, on constitutional grounds, urged against the very action the court has now taken.—*Times*, New York, Jan. 10, 1917.

A DECISION OF VAST IMPORTANCE

Besides having the effect of making dry States really dry, "bone dry," as it is termed in some parts of the country, the decision probably sounds the death knell of the movement to incorporate a prohibition amendment into the Federal constitution. There appears now to be little or no occasion to push this measure, for the Webb-Kenyon Act serves most of the purposes Federal prohibitionists hope to accomplish.—*World*, New York, N. Y., Jan. 9, 1917.

NATION-WIDE PROHIBITION

Now that the Supreme Court has found the Webb-Kenyon law constitutional, which protects prohibition states against the importation of liquors into their territory, the main argument for prohibition by constitutional enactment disappears. Now that any state may make itself absolutely dry, and thus live its own life in the way it appoints, it is more than ever objectionable to have any combination of states enforce their views upon this question on states quite as capable from an intellectual and moral point of view as they to discuss it.—*Journal Courier*, New Haven, Conn., Jan. 15, 1917.

THE LIQUOR QUESTION

Quite obviously there are thousands of men who, if compelled to choose between a law which would deprive them of the right to stock their own cellars with supplies from other states, and legislation of a more liberal nature, will give their votes for the

latter. It is much too early to conclude that prohibition has anything more vital behind it than a desire to do away with certain forms of saloon trade.

Of course there are extremists on the prohibition side who do not recognize the existence of what may be called a middle ground between general license on the one hand and total prohibition on the other, but it would be assuming too much to assume that they represent the main strength of the temperance, as distinct from the prohibition movement. The more reasonable assumption is that the great forces on the side of temperance are not in sympathy with any unnecessary interference with the private habits of orderly people.—*Citizen*, Brooklyn, N. Y., Jan. 9, 1917.

A REVOLUTIONARY DECISION

The effect of the Webb-Kenyon law is problematic. States may not go "dry" so readily if the voter appreciates that prohibition means the abolition not only of the saloon, but of the decanter in the sideboard as well. Also, one of the arguments for national prohibition has been removed. It was contended that because of the protection that the interstate commerce clause of the constitution gave to the liquor traffic, it was impossible for a State actually to go "dry" unless there were national prohibition and "stoppage at source," to use an income tax phrase. Perhaps now that a "dry" State is permitted to wall itself against an invasion of liquor, it will permit the world without its walls to live as that world sees fit.—*Times Star*, Cincinnati, Ohio, Jan. 10, 1917.

A NEW PROHIBITION ERA

The decision of the Supreme Court ought to satisfy the dry States and make them less eager for national prohibition. If they cannot now make themselves dry, they may hesitate to try to force prohibition upon other states that are bitterly opposed to it. For the first time we shall see the effort to control the habits of the citizen undertaken with the sanction of the Supreme Court given individual States to go as far as they like—the right of search,

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authority to declare having liquor on the premises a crime, no matter whether it comes through interstate commerce or not, and to make its use a penal offense. The situation should satisfy the most ardent prohibitionist and incidentally furnish a much-wanted illustration of how earnestly the people in dry States want a prohibition law that prohibits.—*Evening News*, Baltimore, Md., Jan. 10, 1917.

THE WEBB LAW SUSTAINED

To the extent that the affirmation of the Webb-Kenyon law sustains the principle that the states are the rightly constituted authority to regulate the manufacture and sale of liquor, it runs counter to the purpose of the aggressive prohibitionists. What they are aiming at is the enforcement of prohibition by amendment to the Federal Constitution—the thrusting upon New York, Pennsylvania and Illinois of restrictions which these states do not want and which have their origin in the notions of such remote and widely different communities as Washington, North Dakota and Tennessee. We have no idea that such an amendment to the Federal Constitution, if enacted, could ever be enforced in states which, because of the fixed attachment of their inhabitants to personal liberty, had refused to approve it. But the present tendency to assail the rights of the states and their legitimate prerogatives under one form of government, if it persists, is bound to have far more serious consequences to American liberties than would flow even from suppression of the individual's right to eat, drink and wear what he pleases. It is bound to destroy the very basis of local self-government upon which liberty, order and respect for law in a republic of diverse and inharmonious elements must rest.—*Herald*, Rochester, N. Y., January 10, 1917.

STATE PROHIBITION MADE EFFECTIVE

As the Supreme Court has thus declared that Congress has full power to exclude liquor shipments from "wet" states into "dry" ones, the states are greatly strengthened in their control of the traffic within their borders. With State-wide prohibition made ef-

fective by such a law, there may be less immediate demand for a national prohibition amendment which contemplates making "wet" states "dry" by constitutional action without the vote of their own people.—*Post*, Jamestown, N. Y., Jan. 10, 1917.

FOR "DRY" STATES

Unquestionably, this evasion of the purpose of State prohibition contravened the authority of local legislation; and now that the Supreme Court proclaims the validity of the act subjecting "original package" liquor to the law of States forbidding the sale, there should be an end of the controversy. Where the people of a State have declared for the "dry" system, they can enforce it if they really want to do so; no evasion or interference under pretended privilege of national law can be alleged to break the force of their authority.

This, undoubtedly, is a victory for the "drys"; but only so far as the prohibition element has control in the several State governments. What it declares, in effect, is that where the people really want to prohibit the sale and use of intoxicating liquor, they can do so without interference from outside under the pretext of constitutional authority.—*Post*, Boston, Mass., Jan. 10, 1917.

REVIVIFIED STATE PROHIBITION

To the degree that state prohibition is revived and made effective the movement for national prohibition is deprived of its most forceful argument. It is no longer possible to say that national prohibition is the only kind that will prohibit. State prohibition is now given teeth, and a state may no longer plead that it is actually "wet" while legally "dry" because it could not stop shipments at its border.

But a mistake is made in assuming that the decision upsets the balance between nation and state by implying that as to other articles of interstate commerce the state may close its frontier. The Supreme Court plainly regards the liquor traffic as exceptional—that laws in regard to it spring from the police power rather than

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from the power over trade. The decision is thus "progressive" in that it recognizes the right of legislatures to treat what are regarded as exceptional conditions in exceptional ways. Heretofore, the path of progress has been in the recognition of making state laws conform to national laws, but progress is also made when as to some matters the nation recognizes and gets behind local laws. In a country as diverse in its parts as ours it is wise as to many matters for states to possess the actuality of home rule.—*Evening Globe*, New York, Jan. 9, 1917.

SELF-GOVERNMENT

It means that, if Tennesseans desire it, their state may be made "bone dry," not an ounce of the "stuff" to be shipped in for any purpose. It means that the national government will not any longer lend its aid to any project for the annulment of state regulations and warns state legislatures that hereafter there will be no "funny business" about prohibition laws.

In addition it warns the prohibitionists that if they want the country to be "dry" they must do it through the action of the states. The principle is recognized that while rural communities in the states may force laws upon the cities they do not want and what are usually demoralizing and enforced at great expense and with great difficulty, one state may not force another to adopt laws or regulations its people do not want. In other words, that while Tennessee may go "dry" if it wants to, it cannot combine with Georgia, Alabama and other dry states to compel Ohio, Kentucky, Illinois or any other to accept prohibition. The decision does not say this directly, but it does say it in effect.

The Webb-Kenyon decision, therefore, puts the issue of nationwide prohibition precisely where it belongs—an effort to destroy self-government.—*Times*, Chattanooga, Tenn., Jan. 14, 1917.

THE WEBB-KENYON LAW MAY REACT AGAINST THE ADVOCATES OF NATIONAL PROHIBITION

On its face the Supreme Court decision which gives full force and effect to the Webb-Kenyon law, seems to insure the enforce-

ment of prohibition by those States that have adopted sumptuary legislation and inhibited the sale of all spirituous and malt liquors, and, perhaps, for a season the law will make it hard to obtain other wet commodities than the output of illicit distilleries. As a matter of truth, however, the decision is likely to react on the public mind in such a manner as to make National Prohibition an impossibility. The law is drastic in its terms, prescribing punishment for the interstate shipper of liquors into a prohibition commonwealth. There is certain to be a diminution of such shipments as the immediate result of the decision, but there is also certain to be a protest from consumers, many of whom have been interested not at all in prohibition, and many of whom have even voted for a law proscribing local sales.—*Morning Telegraph*, New York, Jan. 10, 1917.

“YOU CAN’T SHIP LIQUOR INTO A DRY STATE,” SAYS THE
SUPREME COURT

The Supreme Court of the United States has decided very wisely and justly that every State has a right to make laws for itself on the subject of whiskey. And outside manufacturers and express companies must not invalidate a State’s laws by shipping the alcoholic drinks across the border into the prohibition State.

There will be interesting and, in some cases, amusing results. We shall know now which of the States really take prohibition seriously, and want it—for everybody.

A distinguished Senator who has made earnest prohibition speeches whenever he was sober enough to do so will now begin to scratch his head, perhaps, and think—since prohibition means that when he is at home whiskey cannot be sent to HIM.

An earnest and energetic Governor who recently declared for prohibition, and who is himself about as far from a prohibitionist as Florida is from Seattle, may revise his views.

This decision of the Supreme Court is welcome.

It enables the earnest prohibitionists to ENFORCE THE LAWS, in spite of outside whiskey manufacturers and express companies.

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It will enable the people to take the prohibition question seriously, earnestly and intelligently, realizing that a prohibition law hereafter will MEAN a prohibition law—excepting for the “speakeasies,” “blind tigers” and “moonshiners.”—*Evening Journal*, New York, Jan. 11, 1917.

END OF THE “ORIGINAL PACKAGE”

It seems quite probable that the effect of the decision will be to put a certain restraint upon the adoption of prohibitory laws within the States. In any State which adopts such legislation, the legislative tendency to accompany it with such a prohibition as that adopted by West Virginia will be strong. That is to say, it will be impracticable as a legislative proposition to adopt prohibition without making it fully effective in this manner. It is the logical conclusion of the “dry” enactment. But at the same time there will be some hesitation in the adoption of a course which must cut off this chance for personal importation and use. Prohibition, under the new condition, ceases to be a thing for somebody else, not for oneself. It will therefore be unattractive to the comfortable classes, which now include the well employed artisans and laborers. It is now to be the “whole hog or none.” There are States which may even be inclined to abandon the prohibition now in force. On its face, the Supreme Court decision on the Webb-Kenyon law is a great victory for the “drys.” In effect, and so far as the ordinary tendency toward “dry” legislation is concerned, it may work the other way.—*Evening Transcript*, Boston, Mass., Jan. 9, 1917.

VICTORY FOR PROHIBITION

Now that the United States Supreme Court has declared valid the Webb-Kenyon law prohibiting shipments of liquor from wet into dry states, the task of the Michigan legislature is made plain and easy. Since liquor may not be shipped into this state after prohibition goes into effect, there is not much need for regulatory measures.—*News*, Grand Rapids, Mich., Jan. 11, 1917.

STATE PROHIBITION

But what now becomes of the contention that federal prohibition is necessary to make state prohibition effective? Clearly that claim has no further basis in fact. Kansas can be as dry as her officials can make her. No liquor dealer in New York can interfere with the execution of the will of the sovereign people of Kansas. A federal prohibition law, therefore, would be merely a means of enforcing prohibition by the will of the people of other states upon states whose people do not desire it. Is it wise or prudent, apart from any question of the desirability of prohibition in itself, to sacrifice in such a manner the great principle of the right of each state to control its own local affairs? Should not the prohibition workers now confine their activities to an effort to establish universal prohibition by state laws? They have been making great progress along this line. The one serious obstacle to the effectiveness of prohibition by the states has been removed. If the question of prohibition is further complicated with the question of home rule by the states, are not the prohibitionists likely to lose their present strong hold on public opinion and weaken their cause, instead of promote it?—*Express*, Buffalo, N. Y., Jan. 10, 1917.

GIVING PROHIBITION A FAIR CHANCE

The country can now observe the workings of prohibition in full sway. West Virginia, for example, is vested with every power that the nation would have under a Federal amendment to the Constitution. The last and chief excuse for the short-comings of prohibition is removed, and the reform is free to survive or perish on its merits.—*Tribune*, New York, Jan. 10, 1917.

THE DRYS' VICTORY

Such a condition of affairs should satisfy the most ardent advocates of total abstinence. If they have or can get the votes they can make locally effective a prohibitory law. Will this consideration cause them to abate their efforts to secure the adoption of an

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amendment to the Federal Constitution making the whole country dry?—*Sun*, New York, Jan. 10, 1917.

WEBB-KENYON LAW

Any state which chooses to do so may try the experiment of a "bone dry" law, penalizing not only the making and selling but the importation from other states of any kind of intoxicating liquor in any form. It can also try the experiment of enforcing such law in exact accordance with its terms.—*Post*, Seattle, Wash., Jan. 10, 1917.

MAKING DRY STATES DRY

What a blow this will be for Maine, where Prohibition has been laughed at for years, can only be told when the Legislature takes action following the high court decision. There are a great many saloons open in many of the Maine cities and liquor is shipped to people by the carload. To shut off this shipment would mean to make Maine absolutely dry. It should be either wet or dry and not make a farce of the law as it is doing now.

There are states in the middle west where the law is violated as it is done in Maine, although perhaps not so flagrantly, and in these states too there should be an enforcement of the law or else it should be repealed.—*Journal*, Meriden, Conn., Jan. 9, 1917.

WILL BE WELL WORTH WATCHING

The ruling of the supreme court has been hailed as the greatest victory ever won by the temperance forces. Perhaps! Time alone will tell. It may be the most severe defeat they have sustained in the last twenty-five years. If prohibition states—such as Maine, Kansas, Alabama, and others that might be named—that are consuming greater quantities of liquor than ever before, are loyal to the principle they have incorporated into law, they will herald the decision as a great advance. If they are the hypocrites they seem to be, they will proceed without much delay to repeal prohibition laws and revert to the regulated dispensary.

If no other thing has been accomplished, the supreme court decision has stripped the mask of hypocrisy from the temperance propaganda.

Henceforth when states enact prohibition laws they will know in advance that they are to be dry in fact as well as in theory.

And that may make quite a difference when the people are determining what position they shall take.—*Times*, Altoona, Pa., Jan. 15, 1917.

HERE'S THE CHANCE

If the enactment of prohibition was intended as a real temperance measure, it can make good by taking advantage of the decision of the Supreme Court just announced, and the enactment of a law prohibiting the use, receipt and possession of liquors in this state as well as their sale and manufacture.

That would stop the outside wholesaler and the mail order house as the state's source of supply and would give us a real experiment with a bone-dry policy.

Will the legislature now in session rise to the situation?—*Argus Leader*, Sioux Falls, S. D., Jan. 10, 1917.

HELPING PROHIBITION

We fancy there will be more consternation in most of the so-called prohibition States than elsewhere, for they must now enact the most rigorous legislation in order to come under the operation of the Federal law. If they fail so to act, their insincerity will be clearly evident. They can no longer whine about shipments from other States as an excuse for farce prohibition.—*Post*, Bridgeport, Conn., Jan. 9, 1917.

THE SHEPPARD BILL

The argument that national prohibition was necessary to make state prohibition effective has been deprived of some of its force by the supreme court's decision. For with the power which this decision informs them they possess, the states can give effectiveness and absoluteness to their prohibitory laws previously thought

impossible. No wet state can ship its liquor into a dry state, if the dry state is genuinely minded to keep it out, and hence there is no longer the same need of co-operation among the states that has been thought necessary to make state prohibition laws effective. The dampness of one state cannot in future, as in the past, give humidity to the atmosphere of a state that has decreed a drouth. In the practical sense, at least, what Pennsylvania may do as to prohibition can no more affect what Kansas may do than can the action of Italy or any other state that is an independent political entity. Thus one of the most effective arguments for nation-wide prohibition has been bereft of its logic, though it must be admitted that with logic so little of the propelling force of the prohibition propaganda, the prohibitionists will hardly think themselves bereaved.—*News*, Galveston, Tex., Jan. 11, 1917.

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